

Subject:	Re-use and Re-development of Employment Land Supplementary Planning Document (SPD)	Status:	For Publication
Report to:	Cabinet	Date:	19 July 2023
Report of:	Head of Planning	Lead Member:	Planning, Licensing and Enforcement
Key Decision:	<input checked="" type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required: No	Attached:	No
Biodiversity Impact Assessment:	Required: No	Attached:	No
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1. RECOMMENDATIONS

- 1.1 That Cabinet adopts the Re-use and Re-development of Employment Land Supplementary Planning Document (SPD).
- 1.2 Minor amendments to the SPD to be delegated to the Head of Planning and Lead Member prior to publication.

2. EXECUTIVE SUMMARY

- Rossendale Borough Council adopted its Local Plan in December 2021 which contains a policy to protect existing (or last used) employment sites and premises. This relates only to sites and premises in use or last used for general industrial or for storage and distribution purposes.
- Policy EMP3 of the adopted Local Plan commits the Council to prepare an SPD to provide further guidance to applicants on the evidence required to justify proposals for the re-use and re-development of employment sites or premises to other uses, including new housing.
- This SPD was taken to Overview and Scrutiny for comment on 6 February 2023 and to agree the statutory consultation prior to the 4-week public consultation with stakeholders.
- Following the advice received from Natural England some additional wording is now proposed to take account of biodiversity and design considerations.

3. BACKGROUND

- 3.1 The Employment Land Review Study published in 2017 reports a lack of good quality small to medium sized industrial premises suitable for industrial and manufacturing purposes in the Borough, and shows there has been a reduction in the Borough's overall employment land portfolio. A high number of out-commuting journeys are made by Rossendale's residents to jobs located outside the Borough, particularly to Greater Manchester and Blackburn. To address this the Employment Land Review (ELR) recommends the retention of some existing employment sites in order to provide a choice to a wide range of businesses and to retain employment land across the Borough, including in areas where deprivation levels are high and the ability to travel to work is more limited.
- 3.2 The Local Plan lists a number of existing employment sites to be retained for employment uses under Policy EMP2 and also allocates new sites to ensure the needs of the Borough in terms of employment land are met, support given to the Rossendale Valley Growth Corridor, and Rossendale's economy is not further constrained.

- 3.3 In order to protect existing employment sites and premises in such uses, planning applicants wishing to re-use or re-develop these sites or buildings will need to comply with the criteria set out in Policy EMP3 of the Local Plan to clearly justify a case for the loss of the employment use. This SPD provides more detailed guidance on the evidence that will be required to accompany any planning application to change the use of sites/buildings currently in use or last used for general industrial (Class B2) or storage and distribution (Class B8). In particular, this SPD provides detailed guidance on the marketing strategy and the viability assessment required to assist in the assessment of such proposals. This will help confirm if there is a reasonable prospect for the site to remain in employment uses or not, whilst not stymying future development opportunities.
- 3.4 Regulations 11 to 16 of the Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for producing SPDs. Before the Local Planning Authority can adopt the SPD it must seek representations on the document, for a period of at least 4 weeks, and set out a summary of the main issues raised, explaining how these issues have been addressed in the final adopted SPD.

4. DETAILS

- 4.1 The Re-Use and Re-development of Employment Land SPD provides further guidance on the criteria set out in Policy EMP3 of the Local Plan that should be submitted alongside a planning application in order for the Local Planning Authority to assess the proposal fully. In particular the document focusses on the marketing strategy and viability assessment requirements needed to justify proposed changes of use to residential schemes. This is detailed in Appendix 1 and Appendix 2 of the SPD.
- 4.2 The information contained in the marketing strategy and viability assessment accompanying any planning application will be essential to assess if the continued or renewed use of the site or premises for employment purposes has been thoroughly assessed and marketed prior to proposing other uses.
- 4.3 Although the Council needs to meet its requirements in terms of new housing development in line with Policy HS1 of the adopted Local Plan, it also has to meet the employment needs of the Borough in order to protect and develop the local economy. Existing employment sites help accommodate the needs of local businesses. There is therefore a balance to be achieved in order to promote sustainable communities within the Borough where the need to travel for work is reduced and where local businesses can thrive.
- 4.4 A marketing strategy is considered essential for any applicant to demonstrate that an existing employment site or premises has been adequately marketed for disposal and for lease. The marketing campaign should consider the re-use/re-development of the site for general industry (B2 planning use class) or for storage and distribution (B8) as well as for other employment uses (e.g. offices, light industry, research and development businesses or other Class E uses) prior to a residential scheme being proposed. This is to ensure that no demand exists from other businesses to occupy the site or premises in its current planning use or to change its use into other employment categories. The information expected as part of the marketing strategy is provided in Appendix 1 of the attached SPD.
- 4.5 It is acknowledged that in some cases existing employment sites might not be suitable any longer or viable for employment use. However this has to be adequately demonstrated through a viability assessment alongside any proposals for the re-development of the site into residential use. Details of the information required to be included in the viability assessment is set out in Appendix 2 of the emerging SPD.

- 4.6 Further guidance may be issued by other organisations that may have a bearing on this SPD and require further changes, for example, through the enactment of the Levelling Up and Regeneration Bill, or further changes to the National Planning Policy Framework (NPPF).
- 4.7 The SPD was taken to Overview & Scrutiny on 6 February 2023 to seek comments and agree the statutory consultation with all stakeholders. Consultation has also been undertaken internally with colleagues in the Economic Development and Development Management teams, as well as with the Council's viability consultants. The public consultation took place for a 4-week period between 9 February and 10 March 2023. An email was sent to statutory consultees and to everyone who has expressed an interest in being consulted about the Local Plan and planning policies (over 1,000 contacts). The consultation was also advertised on social media.
- 4.8 Five comments were received, of which four were from statutory consultees (Natural England, Historic England, The Coal Authority and Homes England) and one by a colleague in Economic Development. The Coal Authority and Homes England had no specific comments to make on the draft SPD while Historic England and the Head of Regeneration and Housing provided supportive comments. Although Natural England have no specific comments on the SPD, stating that the policy is unlikely to have major environmental impacts, they have asked the Council to consider how the SPD could provide opportunities for biodiversity and landscape/local character enhancement. They have also provided a reminder about Standing Advice relating to protected species and the need to consider the Strategic Environmental Assessment or Habitats Regulations Assessment process.
- 4.9 Following Natural England's comments, it is now proposed to refer to biodiversity enhancement as part of the Green Infrastructure provision which is discussed in criterion 'g' of Policy EMP3. In addition, in the same section, it is also proposed to consider how proposals can improve the character and functions of the local area.
- 4.10 Policy EMP3 in the Local Plan states that proposals will be assessed under a number of criteria. Criterion g) refers to a net improvement in amenity. The emerging SPD provides further guidance on how this criterion will be assessed and it is proposed to add the following text, shown as underlined text below, to take on board Natural England's advice:

g) *there would be a net improvement in amenity;*

3.12 Again, this would be assessed on a case by case basis. Potential criteria that would be considered though includes:

- *Highways issues*
- *Noise issues*
- *Character and uses of the immediate area, including enhancing the character of the local area and how it functions through good design*
- *Green Infrastructure provision with opportunities for biodiversity enhancement*

- 4.11 The responses received are available to view on the Council's website at https://www.rossendale.gov.uk/downloads/file/18047/consultation_responses

5. RISK

- 5.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

5.2 This document is intended to help developers understand how to comply with policy EMP3 of the adopted Local Plan to re-use or re-develop existing (or last-used) employment sites and premises. This SPD provides additional details and guidance on how to address the policy requirements. Not having the SPD in place may result in the Council not protecting employment sites and premises as effectively as it could.

5.3 This SPD is open to challenge in the period immediately post adoption by the Council. Planning decisions that are made using this policy as a reason for refusal can be appealed and so this SPD could be scrutinised by Planning Inspectors. Nevertheless the risk associated is minimal and outweighed by the need to issue further guidance.

6. FINANCE

6.1 The Council could be subject to appeal costs and barrister fees defending refusal decisions.

7. LEGAL

7.1 In preparing this SPD for adoption by the Council, the Forward Planning team will have to comply with the legislation set out in Town and Country Planning (Local Planning) (England) Regulations 2012.

8. POLICY AND EQUALITIES IMPLICATIONS

8.1 Details of the consultation are included within the body of the report. There are no specific policy or equalities implications, this is a guidance document based upon the recently adopted Local Plan.

9. REASON FOR DECISION

9.1 Adopting the Re-use of Employment Land SPD will enable the Council to ensure developments that require planning permission will fully consider the retention of sites and premises in employment use prior to proposing any changes of use, including to residential use. This is to ensure that the needs of the Borough in terms of employment land are met in order to protect the local economy and deliver sustainable communities.

Background Papers	
Document	Place of Inspection
Re-use and Re-development of Employment Land Supplementary Planning Document SPD (July 2023)	Attached
Draft Adoption Statement	Attached
Consultation Statement including consultation responses	https://www.rossendale.gov.uk/downloads/file/18047/consultation_responses
Re-use of Employment Land SPD (January 2023). Draft for consultation	https://www.rossendale.gov.uk/downloads/file/17922/draft_re-use_and_re-development_of_employment_land_supplementary_planning_document

Re-use and Re-development of Employment Land

Supplementary Planning Document

July 2023



Figure 1 - Haslingden Drone Footage. Source: Rossendale Borough Council Corporate Photo Bank

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1. Introduction

1.2 The Rossendale Local Plan (2019 to 2036) seeks to protect all existing employment premises and sites or last used for employment uses in order to help meet the Borough's need for employment, encourage a mix of uses across the local area, and to support a reduction in out-commuting journeys. Premises and sites protected by Policy EMP3 fall within the planning land use class B2 – General Industrial or B8-Storage and Distribution.

1.2 This Supplementary Planning Document (SPD) discusses the information that will be needed in order to assess applications proposing the re-use or re-development of employment land.

1.3 Applications involving the loss of employment land in B2 or B8 use-classes will need to show clearly how they meet the requirements of Policy EMP3 criteria (a) to (i). In addition, proposals to re-use or redevelop sites and premises for residential uses will need to comply with the additional criteria set out in Policy EMP3 criteria (j) to (l). This includes marketing the site for 12 months to show there is no demand, and an assessment of the viability to re-use or re-develop for employment land uses.

1.4 Any applicants will need to submit details with their planning application of how their development accords with the criteria set out in Policy EMP3. For schemes that require marketing for 12 months, this should be agreed with the Development Management Team in advance of submitting a planning application, and ideally through the pre-application process. Monthly updates will need to be submitted to show progress and this should be summarised and submitted along with the planning application.

1.5 This Supplementary Planning Document is a material consideration in the determination of planning applications in Rossendale, in accordance with Policy EMP3 of the adopted Rossendale Local Plan (2019-2036).

2. Context

2.1 The Council's Economic Development Strategy 2018 – 2033¹ aims to improve the Borough's economic prosperity by establishing thriving town centres, attracting investment, developing the visitor economy and fulfilling the economic potential of residents and communities. These priorities are also identified in 'Our Place, Our Plan', Rossendale Borough Council's Corporate Plan for 2021-2025².

¹ Economic Development Strategy 2018 – 2033 for Rossendale available to view at <https://www.rossendale.gov.uk/meetings/meeting/1113/cabinet>

² Our Place, Our Plan – Corporate Plan 2021-2025 available to download at https://www.rossendale.gov.uk/downloads/file/16823/corporate_plan

2.2 The policies in the adopted Local Plan (2019 to 2036) relating to employment land are underpinned by the Employment Land Review³ study, published in 2017. This identifies an overall lack of good quality, small to medium sized industrial premises for industrial and manufacturing uses (use classes B2 and B8), which is suppressing the demand for employment. Out-commuting rates are also high.

2.3 Policy EMP2 of the Local Plan identifies new employment and mixed-use allocations and protects some existing employment sites, listed in Table 8. Para 180 explains that existing employment sites were assessed in the Employment Land Review and this recommended that a number of sites be retained in light of their roles and characteristics. These sites will increase the choice ensuring that the needs of a wide range of businesses are met, providing employment opportunities throughout the Borough, including those parts where deprivation levels are high and the ability to travel for work is limited.

2.4 Not all employment site allocations were taken forward from the previous plan. This is in line with Government planning policy set out in the National Planning Policy Framework (NPPF)⁴ which seeks to avoid the long term protection of sites allocated for employment use, where there is no reasonable prospect of a site being used for that purpose (para 122). The remaining existing employment sites that have been allocated in the Rossendale Local Plan (2019 to 2036) as such are afforded protection so that they can continue to serve the needs of local businesses and contribute to the retention of employment opportunities in Rossendale.



Figure 2- Hardman Mill, New Hall Hey. Source: Forward Planning, Rossendale Borough Council

³ Employment Land Review 2017 available to view at https://www.rossendale.gov.uk/downloads/download/10819/employment_land_review

⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

3. Rossendale Local Plan 2019 to 2036

3.1 The Local Plan identifies a requirement for 27 ha of employment land (use classes E(g), B2 and B8) in the borough for the period up to 2036. This is higher than the Objectively Assessed Need for employment land as explained in para 175. This employment land requirement is intended to meet the Borough's need in full and in addition, it will provide choice for businesses as well as offer flexibility in the supply of sites. It also takes account of previous under-provision of employment land.

3.2 Policy EMP2 identifies how the requirement will be met. It allocates new sites for employment use and mixed-use and lists existing employment sites with spare capacity where further development can take place. All the sites identified in Policy EMP2 are protected for employment use and in total will provide a supply of employment land for 31.02 ha. This allows for an element of non-delivery from commitments, as well as providing market choice and flexibility.

Policy EMP2: Employment/mixed-use allocations and existing employment sites

The following sites shown on the Policies Map are allocated and protected for business, general industrial or storage and distribution (Use Classes E(g), B2 or B8 respectively) in the period 2019 – 2036. Additional uses will be permitted on mixed-use site allocations.....

3.3 Please refer to the Rossendale Local Plan 2019 to 2036 – Written Statement⁵ for the list of allocated sites and to the Policies Map⁶ for their location.

3.4 Policy EMP3, which is set out overleaf, protects existing premises and sites last used for B2 (General Industrial) and B8 (Storage and distribution) uses and not allocated for any other uses in the Plan. This is to further reduce the loss of employment land and to ensure the retention of employment opportunities in Rossendale so that the needs of the Borough can be met during the Plan period (2019 to 2036). Any change of use will need to be clearly justified and demonstrated.

⁵ Rossendale Local Plan 2019 to 2036 – Written Statement available for download at:
https://www.rossendale.gov.uk/downloads/file/17076/rossendale_local_plan_2019_to_2036_-_written_statement

⁶ Policies Map of the Rossendale Local Plan available to download at:
https://www.rossendale.gov.uk/downloads/file/17086/rossendale_local_plan_2019_to_2036_-_policies_map

Policy EMP3: Employment Site and Premises

All existing employment premises and sites last used for B2 (General Industrial) or B8 (Storage and Distribution) and not allocated for other purposes will be protected for employment use unless a clearly justified case can be made for a change of use. Proposals on all B2 or B8 employment sites/premises for re-use or redevelopment other than B use class employment uses will be assessed under the following criteria:

- a) whether there would be an unacceptable reduction on the quantity of employment land supply;
- b) the extent of any job losses;
- c) the relative quality and suitability of the site for employment and
- d) an assessment of the existing provision for the proposed use and whether there is a clearly identified need;
- e) the location of the site and its relationship to other uses;
- f) whether the ability to accommodate smaller scale employment requirements would be compromised;
- g) there would be a net improvement in amenity;
- h) the site and/or buildings are listed or locally listed heritage assets and their re-use or development is the most appropriate means to secure and maintain an acceptable and viable use that is consistent with their conservation in line with other relevant policies in this Plan; and
- i) the site has an adequate access and its redevelopment would not create a traffic hazard.

Any proposals for housing use on all B2 or B8 employment sites/premises will need to address criteria a to i above and also be subject to:

- j) convincing evidence of lack of demand for employment re-use and employment redevelopment demonstrated through a rigorous and active marketing strategy to be agreed with the Council and normally of 12 month duration;
- k) an assessment of the viability of employment development including employment re-use and employment redevelopment; and
- l) where the existing buildings make a positive contribution to the local area a structural survey and assessment of the building to demonstrate the feasibility of retaining and converting the building as part of the residential development. Where an existing building will be lost as part of the development, there will be the requirement to consider the re-use of the existing materials within the new development.

An accompanying Supplementary Planning Document will be produced which will set out a balanced criteria based approach, including marketing and an assessment of the viability of employment use, under which all proposals for re-use will be assessed. The SPD will ensure the maintenance and creation of employment opportunities in Rossendale and set out the marketing requirements.

3.5 This section provides further detail for each of the assessment criteria set out in Policy EMP3.

a) whether there would be an unacceptable reduction on the quantity of employment land supply;

3.6 This will be on case by case basis and reference will be made to the size of the site and to the existing supply of employment land as set out in the Council's monitoring of employment land.

b) the extent of any job losses;

3.7 Rossendale already has a high out-commuting rate, with residents travelling into Greater Manchester and other districts within Lancashire to work. In addition there are deprived communities where travel to access jobs is difficult for a number of reasons: limited travel horizons; poor public transport options – lack of routes and frequency of buses; car availability.

c) the relative quality and suitability of the site for employment

3.8 Criteria that would be used to assess this includes:

- Age of buildings
- Suitability for smaller/larger units
- Ability of site to be re-developed
- Access considerations



Figure 3- Greenbridge Mill, Rawtenstall. Forward Planning, Rossendale Borough Council

d) an assessment of the existing provision for the proposed use and whether there is a clearly identified need;

3.9 This would be assessed on a case by case basis, depending on what the proposed use is, and where else it could be accommodated. The applicants may need to commission specialist advice.

e) the location of the site and its relationship to other uses;

3.10 Criteria that would be used to assess this includes:

- Location to Rossendale Growth Corridor
- Proximity to other employment uses
- Public transport availability
- Proximity to urban area

f) whether the ability to accommodate smaller scale employment requirements would be compromised;

3.11 Where a site is acceptable for re-development, it would be expected that the site should also be able to accommodate smaller scale employment units, where appropriate. This should not be compromised.

g) there would be a net improvement in amenity;

3.12 Again, this would be assessed on a case by case basis. Potential criteria that would be considered includes:

- Highways issues
- Noise issues
- Character and uses of the immediate area, including enhancing the character of the local area and how it functions through good design
- Green Infrastructure provision with opportunities for biodiversity enhancement

h) the site and/or buildings are listed or locally listed heritage assets and their re-use or development is the most appropriate means to secure and maintain an acceptable and viable use that is consistent with their conservation in line with other relevant policies in this Plan;

3.13 This would be assessed on a case by case basis. In order to assess this the Council would expect to see a Heritage Impact Assessment and detailed viability information. This may require assessment of the various options.



Figure 4 - Helmsshore Textile Mill. Source: Rossendale Borough Council Corporate Photo Bank

- i) the site has an adequate access and its redevelopment would not create a traffic hazard.**

3.14 A Transport Assessment would be required to assist the Council in assessing this criteria.

ANY PROPOSALS FOR HOUSING USE ON ALL B2 OR B8 EMPLOYMENT SITES/PREMISES WILL NEED TO ADDRESS CRITERIA a TO i ABOVE AND ALSO BE SUBJECT TO:

- j) convincing evidence of lack of demand for employment re-use and employment redevelopment demonstrated through a rigorous and active marketing strategy to be agreed with the Council and normally of 12 month duration;**

3.15 Details of what the Council would expect to be contained in a marketing strategy are given in **Appendix 1**. The Council's starting point is to retain all employment sites that are considered suitable in land-use terms for continued employment use, taking account of material planning considerations, such as traffic or amenity impacts. Alternative uses will only be considered where there is no demand for the site or it is unviable to retain in employment use. The potential to refurbish or to redevelop needs to be taken into consideration.

3.16 The marketing campaign will need to consider both:

- marketing the re-use of the site; and
- marketing the re-development of the site for employment purposes.

3.17 Existing employment land or premises that are currently not in use are not redundant and will need to be marketed for employment use. Furthermore, a lesser financial return on investment relative to other development or re-use options (such as residential) is not sufficient to justify the site not continuing to be available for employment use.

3.18 The marketing strategy will need to be prepared by a suitably qualified professional (such as a chartered surveyor) who is active within and familiar with Rossendale's employment land and commercial property market.

Inadequate Marketing

3.19 In instances where the Council considers that the marketing strategy is inadequate, the applicant will be advised that the planning application cannot be recommended for approval. The applicant have the following options:

- a) To withdraw the application and further market the site addressing the concerns identified by the Council;
- b) To withdraw the application and submit the marketing strategy to independent arbitration by a suitably qualified commercial agent agreed by both parties with the cost to be borne by the applicant;
- c) To continue in the knowledge that the application will potentially be refused.

k) an assessment of the viability of employment development including employment re-use and employment redevelopment;

3.20 The Council accepts that sometimes it may not be viable to re-use or re-develop employment sites for employment uses and so other uses may be appropriate, where a fully-compliant development can be delivered. In order to robustly demonstrate this applicants must submit a Viability Assessment (VA) to the Council. This needs to show clearly that re-use or re-development for employment is not viable now nor in the foreseeable future and that other uses as proposed are financially viable. This work should show how various options incorporating employment uses are not viable.

3.21 The VA will be scrutinised by the Borough Council with advice from a suitably qualified external consultant and the cost of this external consultant is to be borne by the applicant. The assessment will consider whether the approach adopted and inputs used are appropriate and adequately justified by evidence. During assessment, the Council may request clarification or additional information.

3.22 The cost of the Council's review of the VA and any other associated costs (for example related to any follow-up or negotiation requiring the Council's further review or additional support by its external consultant) will be paid for in advance by the applicant – before the review or follow-up work proceeds. In some instances it may be necessary also for the Council or applicant to commission additional specialist services to enable the Council to properly assess the scheme, depending on the nature of the proposals and the dialogue on the information supplied. To ensure

openness and transparency in the planning process, all viability information will be made publically available on the public planning register alongside other planning application documentation. Redaction of any information will only be allowed in exceptional circumstances, and any justification provided as to the extent of harm that would occur if the information was disclosed will be placed on the public planning register, whether or not accepted.

3.23 The National Planning Practice Guidance (NPPG) encourages transparency of evidence wherever possible⁷. The VA must be open and transparent and adopt an “open book” approach see paragraph 3.25 onwards.

3.24 If a VA submitted is to be relied on for the purposes of determining a planning application, the Council will expect that this appropriately represents the viability of the development and is consistent with corresponding information that an applicant has themselves relied upon to inform commercial decisions.

3.25 The Council will not accept viability arguments where it is not given the ability to properly assess the validity of the appraisal that is relied on. It is vital the Council is provided with a full working electronic version of the viability appraisal model that can be fully tested and interrogated. All assumptions should be accessible and capable of variation to observe the impact on the model’s outturn⁸.

3.26 A detailed viability assessment should be submitted as part of the planning application and should have regard to the following points:

- The viability assessment needs to be prepared by a suitably qualified person
- It should include options for the refurbishment or the re-development of the site (partly or wholly) for employment use or for employment generating uses (e.g. Class E). As a last resort this can include options for mixed-use to enable the retention of part of the site for employment use (subject to other policy considerations).
- A statement from the company undertaking the viability assessment that the outcome of the viability process is not linked to any incentives.
- A detailed analysis of costs used for the assessment should be included;
- The market rates, rents, values and yields used should be similar to other recent comparable transactions in the area with a detailed comparison analysis provided;
- Investigate any grants available from the private or public sector to help regenerate employment land such as the Growing Places Fund from the Lancashire Enterprise Partnership⁹;

⁷ NPPG, 10-010-20180724

⁸ The Council will generally not make the live working version of a viability model accessible to third parties, other than to those who have a specific role in advising the District Council on viability matters. These advisors will be required not to release the model to any third party.

⁹ Further information on the Lancashire Growing Places Fund is available at <https://lancashirelep.co.uk/key-initiatives/growing-places/>

3.27 Further details on the information the Council is expecting from the viability assessment is set out in Appendix 2.

3.28 The viability assessment will be made publicly available on the planning register to ensure transparency. Only in exceptional circumstances when the disclosure of elements of the viability assessment would clearly cause harm to the public interest will the Council consider redacting elements of the assessment.

- I) where the existing buildings make a positive contribution to the local area a structural survey and assessment of the building to demonstrate the feasibility of retaining and converting the building as part of the residential development. Where an existing building will be lost as part of the development, there will be the requirement to consider the re-use of the existing materials within the new development.**

3.29 The Council will always wish to retain buildings that make a contribution to a local area. The significance attached to the building or group of buildings will need to be considered by the Council. Structural assessments need to be undertaken by suitably qualified people. A Heritage Impact Assessment may also be required to highlight key features and show how they can be retained, or if not, incorporated into the new development; again to be undertaken by a suitably qualified person (e.g. conservation architect).

4. Further information

4.1 For further information about this SPD please contact the Forward Planning Team at forwardplanning@rossendalebc.gov.uk.

APPENDICES

Appendix 1- Marketing Strategy Requirements for the Re-use or Re-development of Employment Land or Premises for Residential Use

Further guidance on the information required from the marketing exercise is provided below. This needs to be detailed in order to assist the Council in assessing if the site is genuinely redundant.

1. Price

- a) The market price and an indication of this price relative to those prevailing for similar premises in the local market, including details of an independent valuation;
- b) Any reductions in market price made during the course of marketing should be noted.
- c) The marketed use of the site.

The Council will expect employment sites to be marketed in a way that identifies all the options available in retaining the site in employment use. This will include, where appropriate, the potential for refurbishment, redevelopment for new employment uses, sub-division, amalgamation or selective demolition, in order to improve the format, layout and access arrangements.

It is important the price of the property reflects the current market value of such a property based on its current condition and use status. If the building or site requires extensive conversion/repairs, the price should be based on the unconverted state unless the works are to be undertaken prior to completion of the sale.

The price should not include any potential residential or other non-employment use value. You should seek a minimum of one independent valuation which considers both the disposal and the lease of the building in its current condition/state. The basis of the lease should be appropriate to the nature of the use of the building.

It is recommended you obtain an independent red book valuation of the property, from an established commercial source familiar with the local area and with properties of the type to be marketed. The cost of the independent valuation(s) will be borne by the applicant. The valuation should be backed by evidence. The valuation(s) should be submitted as part of the evidence accompanying the planning application and the Council may ask for justification of the price.

2. Tenure

You should be prepared to offer the property or site for disposal and for lease in order to widen appeal and help ascertain the level of interest. Flexible terms, such as short leases, monthly licenses and regular break clauses are encouraged. Again,

any lease price should take into account the current condition and use of the building.

3. Site Particulars

Details of the site particulars should include the following information as a minimum:

- Good quality internal and external photographs
- A description of the site/premises
- The current permitted use and potential employment uses, subject to planning permission
- Dimensions of:
 - the building,
 - internal rooms,
 - eaves height and door widths if relevant,
 - gross internal area,
 - size of the total site including any land.
- Services e.g. electricity, gas, water – any other relevant information
- Asking price (see 'Price' section above)
- Any restrictions, conditions and covenants
- Known costs, such as service charges, rateable value
- Any other known items included in sale (note – the price expected for these should be disclosed to the Council).
- Terms/conditions associated with the sale & the site's tenure – leasehold, freehold etc. (see also 'Tenure' section above)
- Extent of site, shown on a site plan
- Site location including map – the map extract should show the property in relation to the road network
- Contact details for viewing and more information
- Any residential element to the property should be removed or subordinate to the commercial particulars
- Parking availability and access/distances to public transport

4. Advertising

A local or national commercial agent with demonstrable experience of the successful disposal or lease of similar sites in the local area should be instructed. The agent

selected must provide an exhaustive marketing package. As a minimum any advertisements must be evidenced and should include the following:

:

- a) An advertisement should be featured at least once a month within the Commercial Section of appropriate newspapers, and at least through regional and local publications. Larger sites (1,000m² and above) should also be advertised in national publications. Examples of appropriate newspapers include The Rossendale Free Press, Estates Gazette and Property Week. (Please note, this list is not exhaustive). There may be some publications that are inappropriate for the advertisement of commercial sites/premises. In all instances therefore, it is advised that you seek advice regarding your advertisement intentions from the Council's Development Management team. In cases where the property is part commercial/part residential, it is not appropriate for an advert to be placed solely in the residential section of the newspaper.
- b) use of marketing brochures to be widely available (e.g. via mail shots to the estate agents clients database or newsletters);
- c) use of online marketing such as listing the property on a wide range of online sites including at least one mainstream commercial portal such as Rightmove, Prime Location, Realla etc and/or advertising it on social media whenever possible;
- d) Trade magazines specific to commercial property or to specific industries may instead be used if more relevant to the industry. The intervals of advertisement would depend on the regularity and circulation of publications.
- e) Continuous inclusion on the agent's website, own papers and lists of commercial/business premises;
- f) The continuous display of a 'for sale/lease' board must be displayed on site on each site frontage to the highway throughout the marketing campaign, unless otherwise agreed.
- g) Referral to the local business community for consideration of the site's/premises potential for reuse or redevelopment for employment use.

5. Engagement with Rossendale Borough Council

The Council will expect a monthly breakdown detailing contact details of interested parties in the property; all expressions of interest/offers received including rental interest, progress and negotiations undertaken including any offers made and reasons for these being rejected. The applicant should obtain from interested parties reasons/explanations as to why they were not able/willing to proceed. It is not sufficient evidence to just quote number of viewings and generalise on the feedback.

In all cases, the marketing campaign should satisfy the parameters set above.

It is essential that any deviation from the campaign is agreed in writing with the Development Management team from the outset, as this will save time and costs in the future.

If a 'non-agreed' campaign is undertaken or has been undertaken where the council is not satisfied that it is in accordance with what would be expected, this will result in a further period of marketing being requested at the planning application stage or could result in a refusal of permission.

The Council reserves the right to contact any party who has expressed an interest and to send details of the land/property to any party which it feels may be interested in purchasing/occupying the premises for occupation, investment or redevelopment purposes.

Any change of circumstances affecting the premises or land should be reported (e.g. vandalism acts, fire) together with any revisions to the marketing strategy to reflect these changes (e.g. information related to the premises or land revisited and price updated)

All of the above evidence should be appended to any planning application. A marketing campaign checklist is set out below to help with this process:

The Marketing Campaign Checklist

Marketing Campaign Checklist		Yes	No	Date
1	Contact made with the Council's Planning Department			
2	Advice received from the Planning Department in relation to your proposal			
3	Did the advice request a marketing campaign to be undertaken? If yes- please proceed with checklist If no – an application can be submitted without following the steps below			
4	Written details of the required marketing scheme received from Rossendale Borough Council Development Management Team			
5	Submission of details of the marketing scheme sent to the Council's Development Management Case Officer for consideration: a) Asking price and tenure: <ul style="list-style-type: none"> • Valuation of the site/premises for its current use 			

	<p>b) Site Particulars:</p> <ul style="list-style-type: none"> • Internal and external photos; • Description of the site/premises; • Current permitted use and potential uses subject to planning; • Dimensions of building(s), internal rooms, gross internal area, gross site area; • Existing services; • Any relevant restrictions and covenants; • Site plan; • Contact details for viewing <p>c) Advertisement details:</p> <ul style="list-style-type: none"> • Draft advert including information of where it will be published and under which frequency; • Further information on how the site/premise will be advertised including online advertising; <p>d) Confirmation that a 'for sale/to let' board will be displayed on site near the highways</p> <p>e) Proposed reporting format of any enquiries received or changes to the marketing campaign to the Council during the 12 month campaign and format of the final marketing campaign including its results including start date and length of the campaign.</p>			
6	Have the above details been formally agreed in writing by the Council?			
7	Submission reports to the Case Officer on an agreed frequency			
8	Submission of the final summary of the marketing campaign to the Case Officer			
9	Has a written confirmation been received from the Council that the campaign is compliant with Policy EMP3?			

Appendix 2 – Viability Information

The viability assessment should contain the following information.

	Information	Notes
Appraisal format	<ul style="list-style-type: none"> • Electronic version of appraisal in format that can be fully tested and interrogated • Methodology utilised for the appraisal including details of any appraisal software or toolkits used. 	<ul style="list-style-type: none"> • The viability methodology must follow the requirements set out in adopted policy and guidance in the NPPF and NPPG on Viability. • The production of appraisals and evidence is wholly the Applicant’s responsibility. It is not the LPA’s consultant’s role to produce evidence and their own appraisal, but to assess the evidence and appraisals produced by the Applicant and decide whether the information provided is robust and evidence based to be able to come to a conclusion on the financial viability of the scheme. • All inputs and assumptions used in the viability appraisal should be evidenced and justified. Stating that it is the industry norm is not a good enough justification. Methodology used should be consistent with the latest RICS Guidance, including the RICS Professional Statement, Financial viability in planning: conduct and reporting (2019) and RICS Guidance Note, Assessing viability in planning under the National Planning Policy Framework 2019 for England.
Scheme details	<ul style="list-style-type: none"> • Gross and net site areas; • For residential development: dwellings number, size and type including information on tenure (market versus affordable housing); • Density; 	

	<ul style="list-style-type: none"> • Floor areas: <ul style="list-style-type: none"> ○ For residential: Gross Internal Area and Net Saleable Area ○ For commercial / other: Gross Internal Area and Net Internal Area • Proposed specification for each component of development, consistent with assumed costs and values, and target market / occupiers. 	
Development programme	<ul style="list-style-type: none"> • Project plan which should include as a minimum the following: <ul style="list-style-type: none"> ○ purchase of land, ○ pre-construction period, ○ construction period, ○ sale period) • Appraisal cash flow which reflects the development programme and shows spend and revenue received. 	<ul style="list-style-type: none"> • Justification of the project plan will be required
Gross Development Value	<ul style="list-style-type: none"> • Expected residential sales values, ground rents and sales rates with supporting evidence; • Expected rental values and yields with supporting evidence; • Details of likely rent-free periods and voids for any commercial element; • Anticipated value of affordable units based on evidence including details of discussions with Registered Providers and Registered Providers offers. 	<ul style="list-style-type: none"> • Assumptions relating to sale values, rents and yields should be justified with reference to up to date transactions and market evidence relating to comparable new build properties within a reasonable distance from the site, and, where relevant, arrangements with future occupiers where possible. This is to be included in the viability assessment. • Information relevant to comparable properties should be fully analysed to demonstrate how this has been interpreted and applied to the application scheme. • Development appraisals should be informed by discussions with a Registered Provider of affordable housing – providers may be able to indicate their likely offer prices

		<ul style="list-style-type: none"> • Affordable housing values assumed within a VA should reflect the offer/s made by Registered Providers for purchasing the affordable housing element of the development. Where input is not available, information on rents, management and repair costs, voids, yields /payback period requirements should be submitted. For Shared ownership - % share and rent level on retained equity. Estimated %s market value (MV) and £/sq. m indications are also useful benchmarks helping inform a view on the revenue assumptions. • Evidence of calculations underpinning affordable housing values, including details of rental and capital receipts (including stair casing), discussions with Registered Providers and subsidies should be provided
<p>Build Costs</p>	<ul style="list-style-type: none"> • A detailed cost plan should be produced by the Applicant to support their viability case. Abnormal costs should be itemised separately and are costs that the developer perceives to be in addition to 'normal' costs that would be expected to be incurred in the delivery of development. 	<ul style="list-style-type: none"> • Development costs adopted within VAs are typically determined based on current day figures. • Build cost rates should be evidenced and benchmarked by comparable schemes and widely recognised databases such as the RICS Build Costs Information Service (BCIS). BCIS data needs to be adjusted to reflect the specific circumstances of the project. If the build cost rate is at the upper end of the comparable schemes, detailed justification is required to explain why. • Abnormal costs should come with an explanation of the need/relevance and cost estimate information / reasoning for the assumed cost levels. It is expected that these costs will be supported by a cost plan, technical reports and technical design work.

		<ul style="list-style-type: none"> • It should not be assumed that abnormal costs would be borne at the expense of compliance with the Development Plan, as a site involving abnormal development costs will attract a lower land value than could be achieved on a site where this was not the case. This is supported by the NPPG paragraph 14. • If the standard build and abnormal costs are deemed to be at a significant level when compared to standard benchmarks and one of the main reasons for a viability challenge for the subject site, the applicant will be required to pay an additional fee to enable the Council to undertake an independent cost plan review. • The Council will expect a clear correlation to be evident between a development's specification, assumed build costs and development values.
Professional Fees	<ul style="list-style-type: none"> • A detailed list of appointments and fees is required, with supporting evidence • Professional fees should also be stated as a percentage of total build cost 	
Letting Agent and Legal Fees	<ul style="list-style-type: none"> • For commercial buildings that are sold as an investment, letting agent and legal fees can be included in the appraisal. 	<ul style="list-style-type: none"> • Letting agents and legal fees are usually around 15% of the rental value.
Sale Disposal Costs	<ul style="list-style-type: none"> • Sale disposal costs include sales, marketing and legal fees • A detailed breakdown of these costs with supporting evidence is required 	<ul style="list-style-type: none"> • Sales and marketing costs should not be applied to affordable housing units that are transferred to Registered Providers. • Within the Borough, we would expect residential sale legal fees to be around £500 to £750 per property.

<p>Developer profit</p>	<ul style="list-style-type: none"> • Profit on cost or value • As required by the RICS Guidance note, a full risk adjusted return assessment should be provided which is supported by evidence and justifies the profit margin taking into account the individual risks and characteristics of the scheme as well as wider economic risks. 	<ul style="list-style-type: none"> • In accordance with the NPPG the Council will avoid a rigid approach to profit margins. The Council will consider the individual characteristics of each scheme when determining an appropriate profit margin and will require supporting evidence from applicants to justify why a particular return is appropriate, having regard to site specific circumstances, market conditions and the scheme's risk profile. • The appropriate level of developer profit will vary from scheme to scheme. This is determined by a range of factors including property market conditions, individual characteristics of the scheme, comparable schemes and the development's risk profile. The lower the scheme's risk profile, the lower the level of required profit and vice versa. • Profit requirements for affordable housing are generally much lower than those for market sale units, due to the forward sale and funding arrangements with Registered Providers and given the lower levels of risk associated with securing occupation of affordable units compared with the sale of market units. • Profit requirements for commercial schemes are also generally lower than market residential units due to the less speculative nature of commercial developments. • Assumptions made must be balanced and internally consistent. In line with this, it should be made clear how the profit level has been adjusted taking into account the other assumed inputs within an appraisal. For example, where a high build cost contingency
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		<p>or other costs at the upper end of typical parameters are adopted as means of mitigating construction risk, this would equally be expected to influence the assumed profit target.</p> <ul style="list-style-type: none"> • The Council expect that the actual developer return that is produced as part of the applicant's submitted viability development appraisals should form the profit threshold (rather than any higher figure)/ be regarded as a reasonable return for the applicant. • The most common approach for calculating developer's profit in VAs submitted as a part of the planning process is either as a factor of Gross Development Cost (GDC) or Gross Development Value (GDV).
<p>Benchmark Land Value (BLV)</p>	<ul style="list-style-type: none"> • BLV: based on Existing Use Value plus a premium from the landowner. It should also reflect the implications of abnormal costs, site-specific infrastructure costs and professional site fees • Existing Use Value (EUV): this should be based on the value of the land in its existing use, not the price paid and should disregard hope value. • Alternative Use Value (AUV) can only be used if it complies with adopted planning policy, there is a strong justification for why the applicant is not pursuing the existing use and the alternative use is capable of implementation. The NPPG (2019) states that no premium should be applied to the AUV. 	<ul style="list-style-type: none"> • The NPPG is clear in how the BLV should be estimated. It states that the BLV should be established based on the Existing Use Value (EUV) plus a premium for the landowner. The premium should reflect the minimum return at which it is considered a reasonable landowner would be willing to sell their land. The premium should provide a reasonable incentive, in comparison with other options available, for the landowner to sell land for development while allowing a sufficient contribution to fully comply with policy requirements. • Land value should therefore reflect policy requirements, including planning obligations • The previous application of a 'market value' approach is not acceptable and market land comparable values can only be used as a sense check and should be adjusted to take into account full policy compliance and abnormal costs.

	<ul style="list-style-type: none"> • The Applicant should provide the land acquisition price or price expected to be paid through an option as well as purchaser costs including legal fees and agent fees. This should all be evidenced. The BLV cannot be higher than this figure and under no circumstances can this figure be a relevant justification for failing to accord with relevant policies in the plan. • Freehold/leasehold titles • Tenancy schedule - to include lease summaries (where appropriate) • Details of income that will continue to be received over the development period (where appropriate) • Arrangements between landowner and developer, including any land sale, development or tenancy agreements (where appropriate) • Evidence for how benchmark land value reflects planning policy. 	<ul style="list-style-type: none"> • Lower levels of affordable housing should only be tested where warranted by genuine site specific viability constraints (including where an acceptable benchmark land value cannot be achieved) as defined under the terms of this guidance. • A premium should not apply when the land is not subject to a change of use. For example, a commercial use to a commercial use does not warrant a premium. • In any event bearing in mind that land can be overpaid for – a historic or actual site purchase may not be a good indicator of current site value
Planning contributions	<ul style="list-style-type: none"> • Planning obligation costs generally consisting of S106 contributions 	<ul style="list-style-type: none"> • Likely planning obligations should be included as a development cost. • The timing and level of planning obligations that can be supported as a part of the VA process will be considered where these are necessary to make development acceptable in planning terms.
Development finance	<ul style="list-style-type: none"> • A cash flow that was used to substantiate the finance costs, showing spend and revenue received, should be submitted by the applicant. 	<ul style="list-style-type: none"> • A standardised approach will generally be adopted to finance costs which should be appropriate to the type of proposal.

	<ul style="list-style-type: none"> • The applicant should also state and justify the build period and sale period for the scheme, including the estimated percentage of pre-sales (mainly for apartment schemes). • The applicant is required to evidence and justify the financial rate used. 	<ul style="list-style-type: none"> • The viability model should reflect that finance costs vary throughout the development period, with the majority of interest costs typically incurred during construction.
Other	<ul style="list-style-type: none"> • A statement to verify the accuracy of the information submitted • Other information requested by the Council having regard to the specific application • Depending on individual site circumstances further information may be required, this may include: <ul style="list-style-type: none"> ○ Developers market analysis report; ○ Details of company overheads; ○ Copy of financing offer/ letter; ○ Board report on scheme; ○ Letter from auditors concerning land values and write offs; ○ Sensitivity analysis showing different assumption options (e.g. low, medium and high scenarios). 	



ADOPTION STATEMENT

SUPPLEMENTARY PLANNING DOCUMENT

RE-USE AND RE-DEVELOPMENT OF EMPLOYMENT LAND

July 2023

Notice is hereby given under Regulation 11 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) that Rosendale Borough Council has formally adopted the Supplementary Planning Document (SPD) on the subject of “Re-use and Re-development of Employment Land” during the Cabinet meeting of 19th July 2023. This SPD will come into force on Monday 31st July 2022.

The SPD has been modified since its original draft to take into account comments received during a 4-week public consultation undertaken between 9 February and 10 March 2023. **Any Cabinet amendments?**

According to Regulation 11, “any person with sufficient interest in the decision to adopt the supplementary planning document may apply to the High Court for permission to apply for judicial review of that decision”. Also, “any such application must be made promptly and in any event not later than 3 months after the date on which the supplementary document was adopted”.

The Re-use and Re-development of Employment Land SPD and Consultation Statement can be viewed on the Council’s website at **link to webpage**. In addition, a hard copy can be made available to view at the One Stop Shop at The Business Centre, Futures Park, Bacup, OL13 0BB during opening hours.

Should you have any queries about this Adoption Statement, the Consultation Statement or the Re-use and Re-development of Employment Land Supplementary Planning Document please contact:

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