

Application No: 2006/485	Application Type: FULL
Proposal: Erection of 31 Houses	Location: Land off Oaklands Drive and Lower Cribden Avenue
Report of: Development Control Manager	Status: For Publication
Report to: Development Control Committee	Date: 29 th November 2006
Applicant: Hurstwoods	Determination Expiry Date: 29 th Nov 2006
Agent: Hurstwoods	

REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	YES
Member Call-In	No
Name of Member:	
Reason for Call-In:	
More than 3 objections received	YES
Other (please state)	MAJOR

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.

APPLICATION DETAILS

1.1 The Site and the Proposal

The application was deferred by Members at the 7th November 2006 meeting of the Development Control Committee to allow for the additional information submitted by the applicant to be properly assessed.

Further information was submitted by the applicant on 10th November 2006 showing 3 sections through the application site indicating the separation

distances and Finished Floor Levels. The applicant also submitted a revised layout plan showing a number of changes to the layout which mainly related to the separation distances between properties and revised turning arrangements for plots 19, 20 and 22. These changes are assessed at paragraph 4.3 under Form and Layout.

Background

This application has been revised and changed since application 1997/155 was refused by Development Control Committee on 10th July 2006. For ease of reference the previous Committee report is appended which includes a chronology of 1997/155 this can be found in Appendix 1 of the report. The reason for refusal was as follows

1. The proposed development would contribute towards an inappropriate excess in housing supply provision, contrary to Policy 12 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.

Essentially application 1997/155 was an application which was recommended for approval by the Development Control Committee in 1997 subject to a s106 Agreement. The s106 agreement was not signed and in July 2006 the application was brought back before this Committee in light of the significant change in policy position since the resolution to grant was determined. When the application returned to Committee in July 2006, the planning policy context had changed so significantly that the application was refused on the grounds of housing-oversupply.

Following the 10th July 2006 Committee decision to refuse the 1997/155 scheme; pre-application discussions were held between the Interim Spatial Development Manager and the applicant in late July 2006 prior to the submission of the current application. The applicant was asked to provide a reasoned justification for discounting a mixture of uses on the site, also to provide a reasoned justification in relation to housing oversupply. It was highlighted to the applicant that to meet the Structure Plan requirements in Policy 12 a significant level of affordable housing over and above the recommended level of 30% might present a justification in terms of housing over-supply.

The Site

The site lies to the north and east of Oaklands Drive and to the east and south-east of Lower Cribden Avenue, Rawtenstall. The site is steeply sloping and is enclosed to the south and west by dense residential development. To the east stands Mickledore, a large detached dwelling house with substantial grounds and to the north stands Mickeldore Barn and the start of the Green Belt. Parts of the site have been used as a builders yard for several years.

For a more detailed description of the background and site please refer to the previous Committee reports.

The Proposal

The proposal is an amended scheme for residential development which differs from application 1997/155 in terms of layout and house types. 1997/155 was refused by the Development Control Committee on housing over-supply grounds.

The applicant has redrawn the red edge around the site which now excludes land which previously formed part of the garden to Mickledore as a house and tennis court have been constructed there. The applicant has also revised the house types proposed which are in many cases taller than the houses proposed under the previous scheme. The change in house types has also affected the layout of the site meaning that a number of houses are now closer to each other and both closer and taller to houses along Oaklands Drive. Some of the plots have changed the orientation of the houses whilst a number have introduced balconies or raised patios.

There has been no increase in the number of houses proposed which remains at 31 units. The applicant is offering a commuted sum payment in the region of £15,000 towards the provision/ maintenance of recreational open space and associated equipment. The applicant is not offering any affordable housing.

The applicant has provided a detailed design and access statement, however, it is considered that the applicant has not made a detailed justification for alternatives uses on the site being discounted.

The Fall Back Position

The case officer requested further information to which the applicant gave an email response dated 24th October 2006. The email confirmed the applicant's view that foundations had been laid in connection with application 14/92/149 and that a letter from Building Control confirms this; that the site was originally accessed from Mickledore but later accessed from Lower Cribden Avenue although dates are given; the site has been used for the storage of building materials since 1995 and this use has been more intensive at the top end of the site although the applicant claims that all of the site has been used at one time or another; the application differs from 1997/155 as it seeks to meet the local housing need by providing 3, 4 and 5 bedroom properties. Two houses have not been built within the red edge site despite claims to the contrary which were granted under a separate permission and stand within the grounds of Mickledore; there are no plans to include accommodation in the attic space of type D properties. The applicant lists the following as justifications for the 16 additional properties in terms of Housing Over-supply:

- That the development falls within the Government's target for windfall developments equating to 5 properties over a 3-year build period
- That there has been an increase in density on the site from 15 to 20 dwellings per hectare
- The site is allocated in the Council's Local Development Plan
- Demand exceeds supply for the type of houses proposed
- This is a sustainable urban site which would represent an efficient use of land

- That the Council should not wait for the revised version of RSS to be adopted but rather start allowing more residential development on previously allocated sites, whilst presuming the outcome of the RSS Examination In Public.
- This site constitutes brownfield land and would assist the Council in meeting its targets for dwellings constructed on previously developed sites
- The developer will contribute £15,000 towards Public Open Space, affordable housing or regeneration.

The applicant has sent a further email dated 27th October 2006 raising the following points:

1. That the applicant will send a “protected species report” in to the Authority before the Committee meeting
2. That the County Council’s request for a contribution towards public transport costs of £74, 760 is unreasonable since the site is accessible and it was not requested on the previous application.
3. The applicant would be happy to accept a condition covering drainage on the site.
4. Also a condition regarding land contamination.
5. The applicant highlights their willingness to offer £15, 000 either towards public open space on the site or regeneration or affordable housing and reiterates the fall back position of an extant permission for 15 houses on the site which this scheme would improve on in relation to density.

The applicant has been requested to explain the material changes that they believe have taken place since the July Committee decision which outweighs the grounds for refusing the previous application on Housing over-supply.

In an email dated 28th October 2006 the applicant explains that the material changes from the previous scheme are as follows:

- A better designed scheme with a better mix of houses
- The mix of houses offers a variety of houses which reflects local housing need and demand
- Offering a financial contribution towards Public Open Space which the previous scheme did not
- An offer not made at the time of the application but is made in the email of £15, 000 towards off-site public open space or regeneration schemes or affordable housing and £5,000 towards public transport improvements
- Precedent set by Committee approving other schemes in less sustainable locations at the July Committees.

In an email dated 13th November the applicant makes the following points:

- That the Council does not have an extant Affordable Housing policy
- Manchester Road appeal decision...
- The proposed materials would be stone walls and blue slate roofs
- That the mix of houses on the site represents relatively more affordable housing since there are now 3 bedroom properties on the site

- Claim that amendments were requested late in the day
- That the plans respect the 21 metre separation distance guidance
- A bat and wildlife survey has been submitted
- Claim that they have submitted additional information
- Highlight that application 1997/155 was not refused on the grounds of insufficient information

A further email dated 14th November 2006 makes the following points in response to the case officer requesting further plans and corrected information

- A note on the plans states “due to the angles of houses and site layout, sections have been taken parallel and true lengths may be distorted”
- Confirmation that the house type plans are at a scale of 1:75
- That further revised plans will be submitted by Friday 17th November 2006 detailing
 - Elevations for the dwellings on plots 1, 2, 3, 20, 30 and 31
 - Deletion of the balconies on plots 22-29 which stand to the north of properties on Oaklands Drive
 - A reduction in the ridge height of houses on plots 23-31 of between 450-550mm

The contents of the emails received on the 13th and 14th of November 2006 are discussed in the Detail section of the main report in section 4.

1.2 Relevant Planning History

1986-171	Outline – Erection of 5 Houses – Approved
1986-315	Outline – Erection of 27 Dwellings – Approved
1987-514	Reserved Matters (one plot) – Approved
1987-226	Reserved Matters (one plot) - Approved
1988-468	Erection of a detached house – Plot 15 Lower Cribden Avenue – Approved
1991/685	Outline - Erection of 16 no dwellings – Withdrawn
1992/149	Erection of 15 no dwellings – Approved

1.3 Policy Context

Rossendale District Local Plan (Adopted 1995)

DS1	- Urban Boundary
E7	- Contaminated Land
DC1	- Development Control
DC2	- Landscaping
DC3	- Public Open Space
DC4	- Materials
T6	- Pedestrians

Joint Lancashire Structure Plan (Adopted 2005)

Policy 1	- General Policy
Policy 2	- Main Development Locations
Policy 7	- Parking
Policy 12	- Housing Provision

1.4 Other Material Planning Considerations

PPS 1 - Sustainable Development
PPG 3 - Housing
PPG 13 - Transport
PPS 23 - Pollution Control

RSS for the North West
LCC Parking Standards
Rossendale BC Housing Position Statement

2. CONSULTATIONS

2.1 INTERNAL CONSULTATIONS

Forward Planning – The housing provision for Rossendale is contained in Policy 12 of the Joint Lancashire Structure Plan (JLSP), adopted in 2005, which provides for 1920 new dwellings for new households for the period 2001 to 2016. This figure is based on an annual average dwelling provision of 220 dwellings per year for the period 2001 to 2006. From 2006 to 2016 the annual average dwelling provision reduces to 80 dwellings per year.

The Housing Land Position Monitoring Report, taken to Cabinet in June 2006, notes that as of 31st December 2005 the number of dwellings in Rossendale with an extant planning permission was 1233. Completions over the plan period to date from 1st April 2001 to 31st December 2005 (i.e. 4.75 years) totalled 932. This leaves a remaining provision of 988 dwellings. Hence, the number of extant residential planning permissions exceeds the remaining Structure Plan provision.

Looking towards the future five year supply, as from 1st January 2006, a requirement of 435 dwellings is needed. This is significantly lower than the number of dwellings anticipated to come forward, recorded as 832 in the Housing Land Position Monitoring Report 2006. In fact over the next five years it is expected that year on year completions will be significantly higher than the 80 dwellings provided for in the JLSP, even without any additional planning approvals coming forward.

Approval of this application would result in exacerbating the position of residential over-supply that the Borough is currently facing in respect of the adopted Joint Lancashire Structure Plan (2005).

Highways – Drainage – highlight that there is a culvert which runs through the site and recommends that a condition requiring a survey and a scheme of diversion to be submitted to and approved by the Local Planning Authority.

Environmental Health – Contaminated Land – recommend a condition be attached requiring an investigation and risk assessment to be carried out and remedial measures to be carried out if contamination is found.

2.2 EXTERNAL CONSULTATIONS

Lancashire County Council

Planning

The proposal is considered not to be required to meet the Borough's housing need and would therefore contribute to housing oversupply.

Landscape - additional information is required regarding planting details including species and methods as well as building materials and surface treatment.

Ecology - the specialist highlights the need for the applicant to demonstrate that there would be no impact on nesting birds or bats as a result of the felling of trees on the site.

Transport – a contribution of £74,670 should be sought by from the developer towards transport improvements to address particular limitations of the scheme, if the Committee is minded to approve the application.

Highways

Raise no objection to the scheme but request all garages to be 6 metres long, whilst for adequate pedestrian access footpaths should be a minimum of 1.8 metres wide. It is recommended that conditions be imposed covering the provision and maintenance of sight lines and visibility splays.

3. REPRESENTATIONS

3.1 From the original neighbour notification process, letters from 12 addresses on Oaklands Drive and 1 email with no address, were received objecting to the proposal on the following grounds:

- Loss of privacy
- Increased traffic problems
- Poor access to the site for so many houses
- Reduction in highway safety
- Accessibility
- Impact on local services e.g. schools
- Housing over-supply
- Separation distances between existing and proposed properties
- Proposed houses out of keeping with the surrounding area
- Drainage
- Loss of light
- Loss of trees

A 65-signature petition has been received from residents of Oaklands Drive, Ambleside Avenue and Langdale Avenue objecting to the proposal on the following grounds:

- Design, layout and access
- Increased traffic problems
- Intrusion of privacy
- Drainage

No responses received to the re-consultation process by the report deadline of 17th November 2006. All responses received will be reported via the Late Items Report.

4. **REPORT**

4.1 The main considerations of the application are the principle and detail of the scheme. The matters relating to the principle of the development break into the following areas:

- 1) Whether the applicant has proved a justification for the additional dwellings in a climate of Housing Over-supply
- 2) The weight that should be given to the housing allocation over more recent planning policy
- 3) The density of the scheme
- 4) The material changes to the scheme since it was last determined
- 5) Contaminated Land assessment

In relation to the detail of the scheme, the considerations fall into two main headings of form and layout. The form of the development looks at its height, design, roof style, windows and materials whilst the layout looks at the density of the development, the spacing between buildings, roads, footpaths, parking and landscaping.

4.2 Principle

The application site is allocated in the adopted Local Development Plan. The Local Development Plan is now time expired and has been held to be in non-conformity with the Joint Lancashire Structure Plan. The 10th July 2006 Committee report explains, at length, the changes in planning policies not only since application 1997/155 was first heard by the planning committee but also in terms of changes that have occurred since the Local Development Plan was adopted. It is considered that since the planning policy position has shifted so significantly since the Local Development Plan was adopted, that less weight can be afforded to the Housing allocation in the Development Plan and more weight should be given to the currently adopted RSS in particular Policies DP1 , DP2 and Policy UR 7, the Joint Lancashire Structure Plan and the Council's Housing Position Statement which are more recent documents which all underline the housing over supply position in which the Borough finds itself. The applicant has not substantiated an exception to the Housing over-supply situation and the applicant is offering no affordable housing as part of this scheme.

Policy 12 of the Joint Lancashire Structure Plan whilst limiting Housing land supply, does make an exception for residential developments which would

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...[another circumstance] where it may be appropriate to approve residential development in a situation of Housing oversupply [could be where there are] conservation benefits of maintaining an existing building worthy of retention”.

The Council’s Housing Position Statement accepts the position of Housing over-supply but again makes certain exceptions which are limited to residential developments:

- a) In any location where the proposal is a like for like 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 the 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 the setting of listed buildings; and*
- d) The proposal will assist the regeneration of the site; and*
- e) The proposal meets an identified local housing need.”*

The final version of the Housing Position Statement was issued by Rossendale Borough Council on 17th August 2005. However, it should also be noted that neither the draft nor final version constitutes a statutory document and does not therefore form part of the development plan for Rossendale. However, the document provides an 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 Joint Lancashire Structure Plan has been the subject of consultation and an Examination In Public and formally adopted in March 2005. Thus, greater weight can be afforded to the Joint Lancashire Structure Plan.

The proposed development whilst providing an improved mix of housing would not make an essential contribution to the supply of affordable housing or special needs housing. Although the applicant contends that the smaller houses would be technically affordable on the open market, no evidence has been submitted to substantiate this claim and this would only relate to the smaller 3 bedroom properties rather than the broader range of the 4 and 5 bedroom houses over the site. The applicant was requested to consider a mixed-use scheme on the site but has chosen not to pursue this and the site lies outside of the boundaries of the Rawtenstall Area Action Plan, thus the scheme does not represent a key element of mixed use regeneration scheme and would not contribute towards the regeneration objectives of the Authority. Recently, the applicant has offered a financial contribution of £15, 000 towards off-site regeneration works or affordable housing.

The figure offered by the developer is considered to be extremely low. Moreover, this Council has repeatedly taken the view that for Affordable Housing to overcome the Housing Over-supply argument, the interpretation of “essential contribution” indicated by Policy 12 has been taken to mean a “significant” contribution towards Affordable Housing. From the view point of the importance of the contribution housing makes within a regeneration scheme, whilst it is difficult to put a figure on this, it would certainly have monetary value greater than £15, 000. Or put another way, £15, 000 would not facilitate significant regeneration in the Borough as outlined in Policy 12 of the Structure Plan. There would be no conservation benefits from the scheme. It is therefore considered that the proposed development fails to meet the exception criteria of Policy 12 of the structure plan.

In relation to the Council’s Housing Position Statement, the proposal does not represent a like for like replacement of residential properties and lies outside of the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative Area and the Rawtenstall Town Centre Area Action Plan. As such the scheme is automatically discounted from further consideration as an exception to the Position Statement.

Fall Back Position

The Councils previous comments in relation to the fall back position apply (see previous report attached) Planning approval 14/92/149 relates to 15 detached dwellings. The points within the previous report on this point are considered correct. Given that the current application would increase the total number of dwellings on the site by 16, it is considered that the fall back position would not represent a like for like replacement or even similar number of dwellings from that previously approved. If approved this scheme would increase the level of over-supply and does not fall within an exception where such increase is allowed . As such the proposal is not in accordance with the housing position statement.

On the application forms the applicant states that the scheme is for 31 houses on 1.571 hectares of land. In the supporting statement the applicant asserts that the proposal would result in an increase of density. The applicant states that site is 1.571 hectares which means that even 31 houses would still fall short of the PPG 3 housing density target of 30 – 50 dwellings to the hectare. The applicant has confirmed by email that the density of the proposed development would in fact be 20 dwellings to the hectare. It is considered that the increase in density does not outweigh the consideration of oversupply.

The applicant has changed the scheme in relation to design, a better mix of houses which offers a wider range of houses to better reflect local housing need and demand, is now offering a financial contribution towards Public Open Space as well as £15, 000 towards off-site regeneration schemes/ affordable housing and £5,000 towards public transport improvements. It is not clear on what basis the applicant has calculated these figures and on what terms they are offered. The applicant highlights the precedent set by Committee approving other schemes in less sustainable locations at the July Committees although doesn’t state which specific sites. The design and layout are discussed below,

nevertheless, the changes brought by the applicant whilst materially different from the previous scheme are considered not to have substantiated an exception to the Housing over-supply argument.

The applicant has submitted a contaminated land desk top study. The Council's Environmental Health department considers there to be sufficient information on which to make an assessment and their findings are that the contamination on the site would not prevent scheme from going ahead in principle subject to conditions.

The proposed development would contribute to the position of housing over-supply in the Borough of Rossendale and the applicant has not justified an exception to this policy despite changes to the scheme from the previous application. The contamination on the site would not prevent the development of the site but is insufficient to outweigh the aforementioned considerations. As such the principle of the development is considered unacceptable.

4.3 Detail

Form

The current application has revised the house types proposed by the previous application 1997/155. The applicant has now supplied some of the finished floor levels and 3 sections through the site which now enable the impact of the scheme on the adjoining properties, and the living conditions of the future occupiers of the proposed development, to be more adequately assessed. These details were not available at the time of the last Committee meeting. The applicant has also confirmed that the development would be constructed in stone and slate.

From the submitted details, it is clear that the proposed dwellings will be significantly taller than the existing dwellings on Oaklands Drive and Lower Cribden Avenue. The proposed materials would be more in keeping with Lower Cribden Avenue and the common material used in Rossendale but this would not be in keeping with Oaklands Drive which is predominantly constructed in brown brick and concrete tile. The roof design of the proposal would not be out of keeping with the area although the roof pitches would be steeper than those on Oaklands Drive. The proposed dwellings are considered to relate to each other satisfactorily within the development. However, the relationship of the dwellings on plots 8 and 31 to the existing houses at 43 and 32 Oaklands Drive also on plots 1 and 7 to the existing properties at 24 and 29 Lower Cribden Avenue, would be dominant and overbearing to the existing properties to detriment of the visual amenity of the street-scene. No details have been provided of the proposed entrance gate to each access on to the site so its visual impact cannot be assessed.

The applicant has deleted the raised patio/terrace areas to the rear of the properties on plots 23-29 in an effort to reduce the impact of the scheme on the residential amenity of the occupiers of the properties on Oaklands Drive. In terms of separation distances, the guide of 21 metres between habitable room windows assumes 2, two storey dwellings on a level site. In this case, the

proposed dwellings are 3 and a half to four storeys high and are set between 3 and 4 metres higher than the properties on Oaklands Drive. Some Authorities have adopted guidance which seeks to address the issue of an unlevel site and suggest an extra 3 metres of separation for every additional storey or 2.5 metres height difference. This would produce a required separation distance of at least 27 metres for this application and none of the proposed dwellings achieves this separation distance. However, the applicant draws attention to the previously approved and extant scheme from 1992 granted permission for a number of houses of a similar height. The houses permitted under the extant permission are a similar distance from the existing houses on Oaklands Drive, as the proposal has now deleted the balconies/raised terrace areas on plots 23-29. Nevertheless, the proposed dwellings are taller than the previously approved dwellings, presenting a much higher rear elevation to the properties on Oaklands Drive. The approximate Finished Floor Levels of the dwellings with extant permission are lower than those on the proposed scheme. Thus the proposed dwellings would not only be higher in their design but also set higher which in some cases results in building with a rear elevation 3 metres higher than the extant 1992 permission. On the same premise, it could be argued that the internal separation distances between the proposed properties should be increased.

As such the proposed development would be detrimental to the visual amenities of the surrounding area and to the residential amenities of both the occupiers of existing properties and the future occupiers of the proposed development.

Layout

The applicant has amended the layout of the scheme which now provides improved parking and turning facilities for plots 19, 20 and 22. The Highways Officer does not object to the road and pavement layout. As such, there appears to be adequate access for vehicles and pedestrians.

The current scheme has reduced the garden depths of a number of properties and in general the houses appear to be sited very densely as well as being quite tall buildings themselves. The applicant has not submitted a detailed landscaping scheme.

Response to Applicant's E-mails of 13th and 14th November

The Council is currently drafting an Affordable Housing policy, however, the policy requirement for "an essential contribution to the supply of affordable or special needs housing" to be made to overcome the Housing over-supply housing, is a structure plan policy which is adopted planning policy. Also, the Council's own Housing Position Statement sets the criteria that to overcome the restrictions imposed by a scheme would need to meet an identified local housing need which the applicant has not identified. Therefore the applicant should be making some contribution towards affordable housing within this scheme which solely the mix of housing proposed is considered not to meet.

In terms of the Manchester Road appeal, at the time of considering an outline housing scheme for 6-10 houses on the 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.*”

It is considered that the Council's 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 and adds to the position reached by the Inspector who dismissed the previous appeal on the Holmefield House site (APP/B2355/A/04/1140578).

The audit of housing figures confirms that the number of dwellings constructed coupled with the number of extant permissions over the plan period exceeds 1920 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).

As stated elsewhere, it was believed that from conversations early in the process, the applicant did not wish to negotiate changes to the scheme. A position which has changed during the course of the application.

The applicant has submitted a bat and wildlife survey together with additional information. The layout plan submitted does show a separation distance of 21 metres between properties but for the reasons stated above, this is considered not to be sufficient.

At the time of writing the additional plans stated in the 14th November 2006 email have not arrived.

Planning Contributions

The Lancashire County Council's policy paper on Planning Obligations in Lancashire was adopted by the County on 2nd November 2006. However, this has not been formally adopted by Rossendale's Cabinet. The reason this contribution is required on this application is because it is a new application

with significantly different details. At the time of writing, the applicant had not submitted details for the drafting of a section 106 agreement or a unilateral undertaking.

Letters of Objection

Of the issues raised by local residents not already covered by the preceding discussion, the issue of increased traffic on inadequate roads was not raised by the previous application on the site nor has the Highway officer objected. Drainage is not normally a planning consideration and no substantive evidence has been submitted by third parties to substantiate that the local drains and sewers would be unable to meet demand. The scale of the development would not normally warrant refusal on the grounds of increased pressure on local school places and the County Council has not indicated that this would be the case.

Recent Newspaper Article

Members of the Committee must approach the determination of the application with an open mind and that it must be considered only on its planning merits. Members may have read a recent front page article written by the applicants/developers. I advise you to put out of your minds any threat by the applicant/developer to sue the Council. The financial consequences to the Council of determination of the application in a particular way should not be taken into account.

Just as the Committee would not, for example, consider beneficial financial consequences to the Council as a landowner which would follow from a grant of planning permission so they should not consider adverse financial consequences to the Council which might ensue if there were to be a refusal of permission. This application should be determined on its planning merits.

Issue of Fairness

There has been no delay in the handling of this application, indeed the Committee deferred the consideration of this application at 7th November meeting to allow for the applicant to submit further information to enable the application to be properly assessed. Thus the issue of fairness is not a material planning consideration in the determination of this application.

5. **CONCLUSION**

- 5.1 The application is unacceptable in principle whilst the details of the scheme, now that more detail has been submitted, demonstrate that the scheme would detrimentally affect visual and residential amenity.
- 5.2 The applicant has offered an extremely low financial contribution towards off-site regeneration/ affordable housing and transport improvements.

6. RECOMMENDATION(S)

- 6.1 That the application be refused on the grounds that the development would contribute towards Housing over-supply and would be detrimental to the visual and residential amenities of the surrounding area.

7. REASONS FOR REFUSAL

1. The proposed development would contribute towards an inappropriate excess in housing supply provision, contrary to Policy 12 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.
2. The proposed development, by reason of its size, height, design and position would be a dominating and incongruous feature in the street scene and surrounding area which would be detrimental to the visual amenities of the surrounding area. As such the proposed development conflicts with Policy DC1 – Development Criteria of the Rossendale Local Plan.
3. The proposed development, by reason of its size, height and position would be detrimental to the residential amenities of the occupiers of the existing dwelling adjacent to the site and the future occupiers of the proposed dwellings. As such the proposed development would conflict with Policy DC1 – Development Criteria of the Rossendale Local Plan.
4. The applicant has not made adequate contributions towards public transport improvement or affordable housing and thus the application conflicts with the Lancashire County Council Planning Obligations in Lancashire policy paper and Policy 12 of the Joint Lancashire Structure Plan.

Contact Officer	
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**TITLE: APPLICATION NUMBER 1997/155
ERECTION OF 31 NO. DWELLINGS (THE DEVELOPMENT MAY
AFFECT THE SETTING OF FOOTPATH 240)
AT: LAND AT OAKLANDS DRIVE AND LOWER CRIBDEN AVENUE,
RAWTENSTALL**

TO/ON: DEVELOPMENT CONTROL COMMITTEE / 10th JULY 2006

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

STATUS: FOR PUBLICATION

APPLICANT: HURSTWOOD 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 9th April 1997. This application was considered by this committee in 1997 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 a cleared site within the urban area. The proposal seeks consent for the provision of 31 dwellings. Seven dwellings would be access from Lower Cribden Avenue. The remaining 24 dwellings would be accessed from Oaklands Drive. Oaklands Drive is significantly lower the Lower Cribden Avenue to the north. This change in levels is reflected in this site.

The Section 106 agreement has been drafted which requires that the Council to enter into a legal agreement with the developer (relative to open space). The Head of Legal and Democratic Services informs me that the agreement has now been drafted and agreed by both parties, recent changes to the Development Plan 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 1997 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. Furthermore as the Committee did not delegate anything other than the issuing of the decision notice on completion of a satisfactory S106 agreement it is necessary to refer, the reconsideration of this matter back to Committee. 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 1997. The report does not re-reconsider other aspects of the application which are unaffected by changes to the development plan. The previous committee report is included and a chronology is included at Appendix 1.

Additional Information

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

- The chronology does not provide a full picture of attempts made by the applicant to secure the provision of the Section 106 agreement. Therefore, with regard to fairness, the weight attached does not reflect the circumstances of this case.
- The applicant does not agree that an appeal against non-determination was a viable option and would have resulted in further delay and expense to all parties.
- The applicant has drawn members' attention to relevant circulars which advise that the preparation of legal agreements should not delay the planning process.
- The applicant's agent does not agree with the weight which has been afforded to documents referred to in the report
- The applicant does not agree with the audit of housing figures and considers that Policy 12 of the Structure Plan is discredited

- The applicant draws members attention to the 'fall back' position

I have received additional letters of objection from five households. The following comments have been raised:

- New housing is not required in Rossendale
- Increase in traffic generation and car parking
- Does not conform with the character of the area
- Request limited access to the site during construction if approved
- Dual access from Lower Cribden Avenue and Oaklands Road should be provided during construction
- Damage to the highway
- Lower Cribden Avenue and Oaklands Road should not be joined
- Road should be cleaned daily
- There is a further application for a lesser number of dwellings

Members should note that only those issues, which have resulted from changes to the Development Plan since the Development Control Committee was minded to approve this application, should be considered by this Committee.

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 1997 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 drafted. In this case there was some delay in formulating instructions to draft the legal agreement. However, I take the view that, in the light of the change in circumstances which has occurred since 1997 and which has not been considered by members, it would not be appropriate for officers simply to issue the decision notice without reference back to members.

The legal position is that the Council must have considered all material considerations affecting the application as at the date when the decision notice is issued. In this case, as I have already explained, significant changes both to the development plan and to other material considerations which bear on housing development in the Borough have occurred since the Development Control Committee considered this application in 1997. 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 of the Housing Position Statement was issued by Rossendale Borough Council on 17th August 2005. However, it should also be noted that neither the draft nor final version constitutes a statutory document and does not therefore form part of the development plan for Rossendale. However, the document provides interpretation of the reasoned justification of policy 12 of the Structure Plan and should be used as guidance in the assessment of applications for residential development in conjunction with policy 12 of the Structure Plan.

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

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

The applicant's agent has drawn members' attention to a 'fall back' position of an extant permission for housing on this site which is a significant material consideration. Planning approval 14/92/149 relates to 15 detached dwellings. I am

informed that this approval has been started, as such could be completed today without further consent from the Local Planning Authority. The extant permission does not require the developer to contribute towards public open space by way of a S106 agreement. This extant permission and level of provision is accounted for in the audit of housing figures.

Given that the current application would increase the total number of dwellings on this site by 16, I do not consider that the 'fall back' position would represent a like for like or even similar number of dwellings from that previously approved. If approved, this scheme would increase the level of over-supply and does not fall within an exception where such increase is allowed. As such I do not consider that the proposal is in accordance with the Housing Position Statement.

Planning Policy Guidance Note 3: Housing was issued in 2000 and seeks to promote efficient use of land. Whilst this scheme would increase the density of housing on the site (albeit that this current application boundary is larger than the extant permission) and therefore portray a more efficient use of land, it must be balanced against the position of an oversupply of housing across the borough.

Given that the site is not located in either the Bacup, Stacksteads and Britannia Housing Market Renewal Initiative area or Rawtenstall Town Centre Area Action Plan and cannot be considered to be in accordance with the position statement I do not consider that the increase in density, to outweigh the housing targets set out in policy 12 of the Structure Plan.

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

Therefore, given that this proposal would further increase the level of oversupply, I do not consider that the proposal accords with any of the limited circumstances identified where housing development would be considered acceptable.

Audit of Housing Figures

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

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

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

housing supply figures quoted above. LCC itself has suggested that if insufficient dwellings are completed, additional sites for housing may need to be approved.”

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

The audit of housing figures confirms that the number of dwellings constructed coupled with the number of extant permissions over the plan period exceeds 1920 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 as such the proposal does not accord with any of the points identified in the Housing Position Statement.

The previous extant permission is counted within the audit of housing figures. In terms of the ‘fall back’ position of the previous extant permission it is necessary to consider that the extant permission would provide 15 dwellings on this site. This current application would provide a total of 31 dwellings and a contribution towards public open space. However, I do not consider that the contribution towards public open space represents sufficient exceptional circumstances to justify the approval of what would represent an additional 16 dwellings outside of any defined regeneration area in a position of significant housing oversupply.

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 Guidance Notes (PPG) and their replacement Planning Policy Statements (PPS) set out the Government's national policies on different aspects of land use planning in England.

Planning Policy Guidance Note 3: Housing, 2000 sets out the Government's policy for housing. It promotes a sequential approach to site selection seeking to ensure that brownfield sites are developed in preference to greenfield sites. It promotes residential development at a density of between 30 and 50 dwellings per hectare, although in highly sustainable locations densities above 50 dwellings per hectare are considered acceptable.

Planning Policy Guidance Note: Transport, 2001 seeks to promote more sustainable patterns of development. It promotes accessibility to jobs, shopping, leisure facilities and services by public transport, cycling and walking and aims to reduce the need to travel and the reliance on the private car.

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

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

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

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

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

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

Core Strategy (Preferred Options Report March 2006)

The Preferred Options Report identifies in Proposed Policy Response DS1: Hierarchy of Towns that Whitworth is a “Local Service Centre” in addition to the “Key Service Centre” set out in the RSS. Other relevant Proposed Policy Responses include:

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

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

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

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

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

Conclusion

The audit of housing figures confirms that 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 am 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.

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

The proposed development would contribute towards an inappropriate excess in housing supply provision, contrary to Policy 12 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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PLANNING APPLICATIONS

APPLICATION NO. 14/97/155

ERECTION OF 31 NO. DWELLINGHOUSES. THE DEVELOPMENT MAY AFFECT THE SETTING OF FOOTPATH NUMBER 240. LAND AT OAKLANDS DRIVE AND LOWER CRIBDEN AVENUE, RAWTENSTALL.

Description of Development

It is proposed to erect 31 four and five bedroomed detached properties on two connected sites, the larger of which is served from Oaklands Drive (24 dwellings) with the remaining 7 properties served off Cribden Avenue. The larger site is split on a north south axis by a narrow belt of tree planting which it is proposed it should be managed and serve as public open space for the development. The detached properties are proposed to be constructed with outer facings of natural stone and render which is consistent with existing development undertaken by the same developer in previous years.

Consultation Replies

County Surveyor

Raises no objections from an highway point of view.

North West Water

Raises no objections in principle, requires the site to be drained on a separate system and notes that water pressure in the locality is known to be generally low and that the development would require feeding from two sides linking Lower Cribden Avenue and Parkwood Drive - a matter that would be required to be funded by the developer.

Neighbours

Two letters of objection have been received to the initially submitted application and prior to the receipt of amendments relating to the provision of public open space within the development. Matters raised include highways safety and traffic volumes and the ability of emergency vehicles to negotiate congested residential streets, together with the loss of recreational facilities in the form of open land which is used by existing residents and the potential loss of a woodland area. Reference is also made to the ability of the existing sewer network to cope with increased useage. No letters of objection or comments have been received as a result of public reconsultation.

Development Plan Policy(ies) Affecting Site

The site is designated in the Rossendale District Local Plan for residential development. The additional relevant policies include policy DC1 (Development Criteria), DC 2 (Landscaping), DC3 (Public Open Space) and DC4 (Materials).

Other Material Considerations

Principal issues for consideration by Committee

1. Development Plan Policy
2. Issues raised by objectors

Taking each in turn:

1. The site is designated for housing development. The pattern of development in the locality is predominantly large detached properties running generally with the contours of this prominent south facing hillside. A range of building materials has been employed in the locality ranging from brick, stone, (both natural and artificial), render and timber boarding. There is therefore no particular building material which has predominated. It is not considered appropriate in this locality to insist upon the exclusive use of natural stone. The applicants propose the use of a reconstructed stone and render, the appearance of which will be similar to previous phases of development on Cribden Avenue. The use of an existing belt of semi-mature tree planting for public open space would fulfil the requirements relative to policy DC.3 and it is considered that the design and character of the development reflects the generally medium to low density of existing residential development in the immediate locality.
2. With regard to objections raised by residents, the highway authority raises no objections to the development relative to the ability of the existing highway network to serve the development. The existing woodland will be utilised as informal public open space and the water company whilst advising on mains water pressure has not drawn attention to any problems over sewer capacity.

Conclusion

The proposal to develop these interlinked housing development sites is in accordance with Development Plan land use designation and the character and design of the development is consistent in both appearance and layout with the pattern of development in the locality. The applicant has offered to enter into a Section 106 agreement relevant to the provision and subsequent maintenance funding of an area of public open space.

Recommendation

That planning permission be ~~granted~~ subject to

- a. The entering into of a Section 106 Agreement relative to the provision and maintenance of an area of public open space within the development and
 - b. The standard time period condition and the following conditions.
2. No building/none of the buildings hereby permitted shall be occupied until the landscaping scheme as shown on the submitted plans has been fully implemented in all respects (including where appropriate the provision of any landscaped areas and/or screen walls, fences or other means of enclosure,. Any trees or plants which die, are removed or

become seriously damaged or diseased within two years of planting shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In order to enhance the setting and appearance of the proposed development to assist in the provision of a satisfactory standard of visual amenity within the locality, and to screen the development.

3. No development shall take place until samples of the proposed artificial stone, render and roof tile have been submitted to and approved by the Local Planning Authority and the outer face of the building shall not be constructed other than with the approved materials.

Reason: In the interests of visual amenity and in order to ensure a satisfactory degree of harmony within the development, as details in this respect have not been submitted with this proposal.

4. No development shall take place until details of the siting and design of all screen or boundary walls, fences or other means of enclosure which form part of the development have been submitted to and approved by the Local Planning Authority. No building/none of the buildings hereby permitted shall be occupied until the walls, fences or other means of enclosure have been erected in accordance with the approved details.

Reason: In order to enhance the setting and appearance of the proposed development, assist in the provision of a satisfactory standard of visual amenity within the locality, and to screen the development.

Appendix 1

Chronology of application 1997/155

This application was received 9th April 1997.

The application was considered by the Development Control committee in 1997 were it was minded to approve the application subject to a legal agreement.

08/09/97 – resolution to grant subject to s106.

Instructions received 14 /11/02 in legal services

03/01/03 legal raise issue regarding incorrect Art 7 cert raised

18/11/04 legal raise issue of clarification of commuted sums /PPG3 issue /housing supply

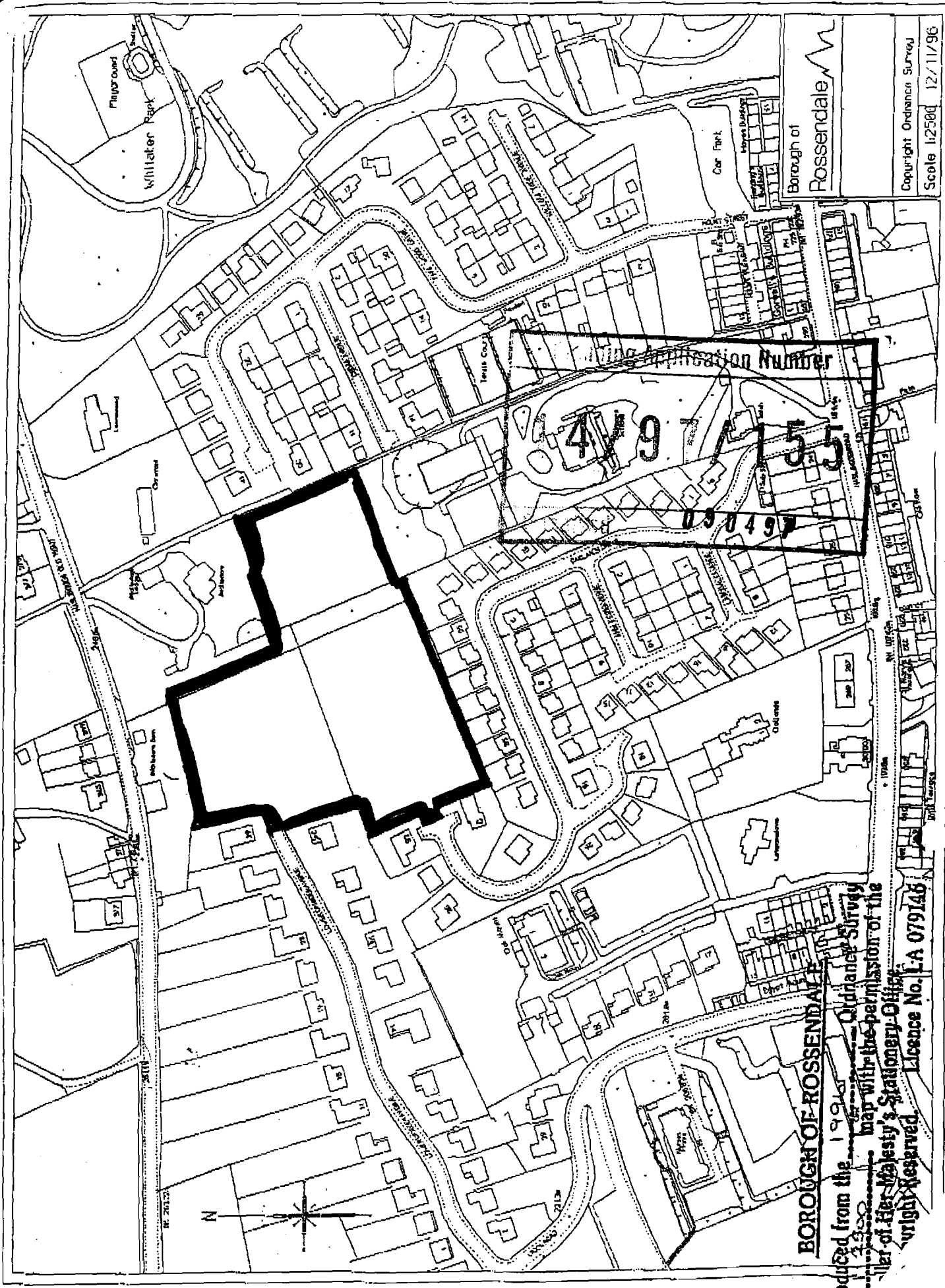
26/11/04- draft sent out

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

Letter 09/03/06 informing of need to refer back to Committee from legal

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

State N



Borough of Rosendale
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Application Number
 4V9 155
 090497

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2006 / 485

AMENDED PLANS RECEIVED 10 NOV 2006



Levels indicated adjacent to houses, are approx finished internal floor levels at 'front entry' floor level

Site access extended from existing Lower Cribden Road, with gated entrance opening into site

Maintain min 21,000mm between main elevation walls (with window openings within walls) where Front-Front, Back-Back, Front-Back

OUTLINED IN RED...FOOTPRINT OF HOUSING LAYOUT AS APPROVED ON THE 1992 PLANNING APPROVAL, LAID OVER THE CURRENT APPLICATION PROPOSALS

Site access extended from existing Oaklands Drive with gated entrance opening into site

Levels indicated adjacent to houses, are approx finished internal floor levels at 'front entry' floor level

OUTLINED IN RED...FOOTPRINT OF HOUSING LAYOUT AS APPROVED ON THE 1992 PLANNING APPROVAL, LAID OVER THE CURRENT APPLICATION PROPOSALS

REDUCED AREA OF SITE FROM THE SITE AREA AS APPROVED ON THE 1992 PLANNING APPROVAL, LAID OVER THE CURRENT APPLICATION PROPOSALS

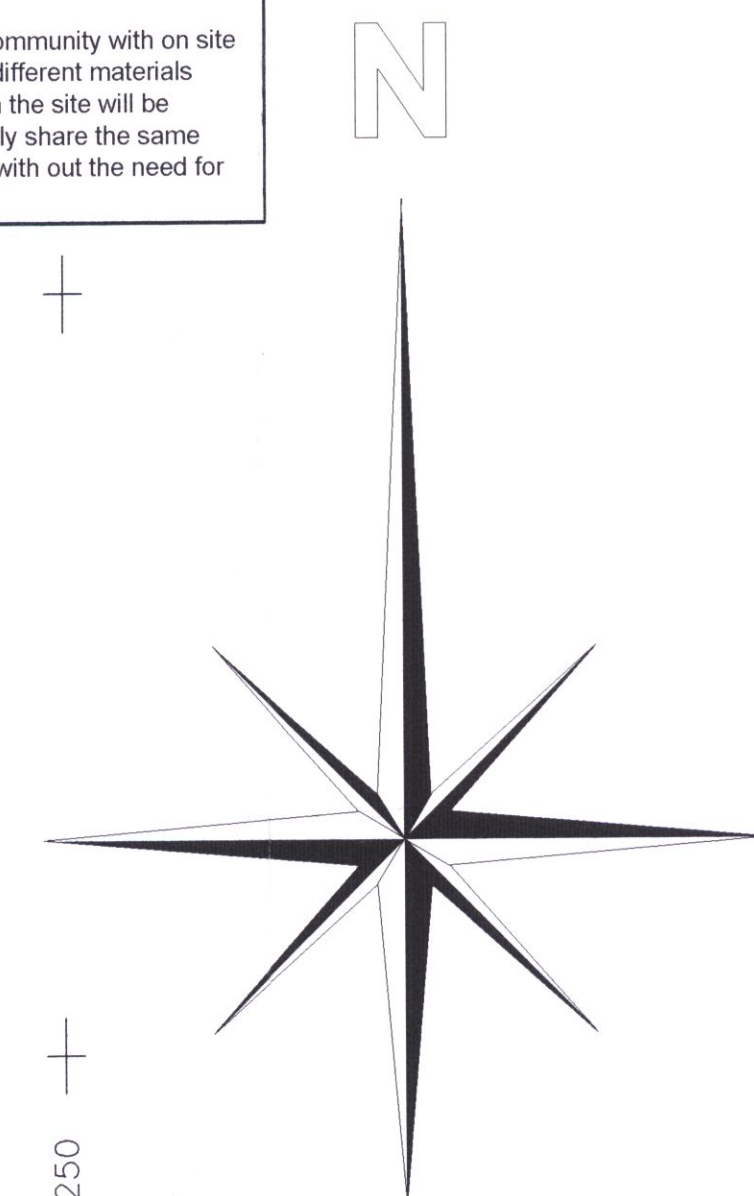
REDUCED AREA OF SITE FROM THE SITE AREA AS APPROVED ON THE 1997 PLANNING APPROVAL, LAID OVER THE CURRENT APPLICATION PROPOSALS

Levels indicated adjacent to houses, are approx finished internal floor levels at 'front entry' floor level

Note: The development has been designed as a gated community with on site traffic calming facilities (ie gentle road humps and different materials for parts of road etc) and as such car speeds within the site will be very low. On this basis bicycles and cars could easily share the same road without any detriment to highway safety, and with out the need for dedicated cycle routes within the site.

Maintain min 21,000mm between main elevation walls (with window openings within walls) where Front-Front, Back-Back, Front-Back

Provide a solid screen fence/wall along southern boundary (approx 3000mm high from application site boundary level) to eliminate any possible over looking from balconies into gardens & windows of houses along Oaklands Ave



GENERAL NOTES
1. THIS DRAWING IS SUBJECT TO COPYRIGHT AND IS NOT TO BE REPRODUCED IN PART OR IN WHOLE WITHOUT APPROVAL.
2. DO NOT SCALE THIS DRAWING

- preliminary
- information
- approval
- construction
- as built

- A ... MINOR AMENDMENTS AS REQD BY CLIENT kz 08/06
- B ... AMENDED ROAD/PATH/PARKING LAYOUTS TO COURTYARD AREAS TO PLOTS 17-22, ADDED ADDITIONAL NOTES & DIMENSIONS kz 10/06
- C ... ADDED INTERNAL FLOOR LEVELS OF ENTRY LEVEL POSITIONED ADJACENT TO EACH HOUSE kz 11/06
- D ... ADDED INFORMATION ABOUT REDUCED SITE, INDICATED PERIMETER HOUSES AS PREVIOUSLY APPROVED, ADDED ADDITIONAL LEVELS + REVISED OTHER LEVELS + GENERAL MINOR REVISIONS. . kz 11/06



CLIENT Hurstwood Developments Ltd
 PROJECT Housing Development at Oaklands, Rawtenstall
 TITLE Comparative Site Plan

SCALE	1:500
DATE	08/06
DRAWN BY	kz
DRAWING NUMBER	2984/10
ABCD	

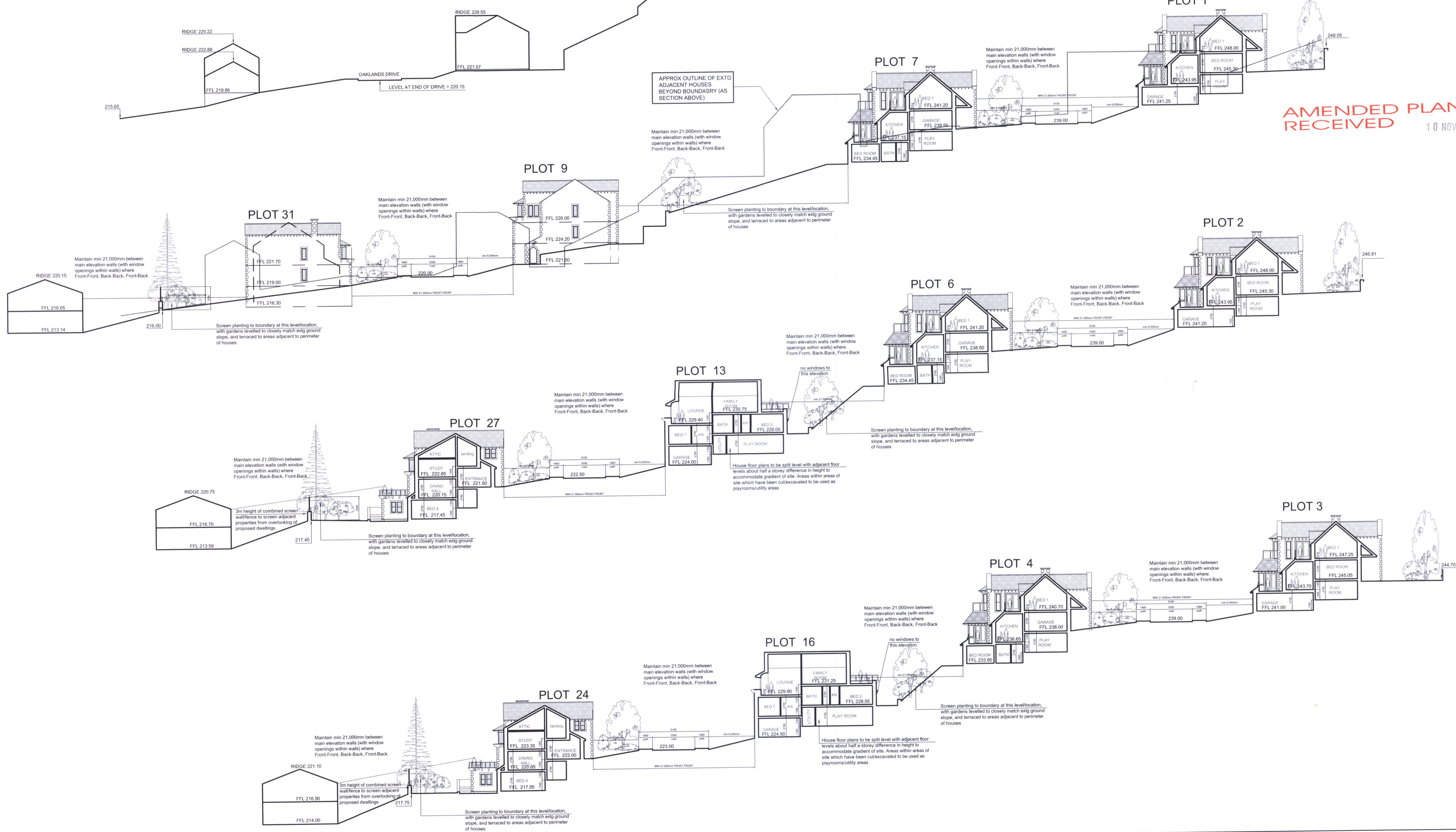
11 Riversway Business Village, Navigation Way, Preston, PR2 2YP
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NOTES:

1, DUE TO ANGLES OF HOUSES AND SITE LAYOUT, SECTIONS HAVE BEEN TAKEN PARALLEL AND TRUE LENGTHS MAY BE DISTORTED.

2006 / 485

SECTION THROUGH EXISTING HOUSES ALONG WEST BOUNDARY



AMENDED PLANS RECEIVED 10 NOV 2006

GENERAL NOTES
 1. THIS DRAWING IS SUBJECT TO COPYRIGHT AND IS NOT TO BE REPRODUCED IN PART OR IN WHOLE WITHOUT APPROVAL.
 2. DO NOT SCALE THIS DRAWING.

- preliminary
- information
- approval
- construction
- as built

A ... ADDED ADDITIONAL SECTIONS & CHANGED SCALE OF PLOT ... kz 11/06



CLIENT Hurstwood Developments Ltd
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 TITLE Site Sections
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SCALE 1:250
 DATE 10/06
 DRAWN BY kz
 DRAWING NUMBER 2984/09