

**TITLE: 2005/355 DEMOLITION OF EXISTING OUTBUILDINGS AND ERECTION OF 13 ONE BEDROOM BUNGALOWS (SITE AREA 0.33HA) ON LAND ADJACENT TO GARDEN COTTAGE, WALLBANK DRIVE, WHITWORTH (THIS MAY AFFECT THE SETTING OF PUBLIC FOOTPATH 126)**

**TO/ON: DEVELOPMENT CONTROL COMMITTEE 2<sup>nd</sup> AUGUST 2005**

**BY: TEAM MANAGER DEVELOPMENT CONTROL**

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

**APPLICANT: MRS K ECCLES**

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### **Human Rights**

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

#### **Article 8**

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

#### **Article 1 of Protocol 1**

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

### **Site and Proposal**

The applicant seeks permission for the erection of thirteen dwellings (one bed bungalows) at land at Garden Cottage, Wallbank Drive, Whitworth.

A new access to the site would be formed from Wallbank Drive. The dwellings would be constructed of stone and a rendered finish. The roof will be constructed from concrete interlocking roof tiles. There are protected tree along the frontage with Wallbank Drive.

Part of the site includes an existing dwelling (Garden Cottage) which is to remain (some of the outbuildings to this property are to be demolished) and as such this part of the site (including its curtilage) is not 'developable' in respect of density calculations. The site is located within the Urban Boundary as defined by the Rossendale District Local Plan.

## **Relevant Planning History**

2004/616 – Demolition of existing outbuildings and erection of 13 dwellings (this may affect the setting of public footpath No. 126) at Garden Cottage, Wallbank Drive, Whitworth

## **Notification Responses**

Site notices were posted and a petition has been received in favour of the proposed development as there is a strong demand for retirement/disables access bungalows in the area, which could be met to a large extent by this development. The petition contains 274 names.

One letter of objection has been received, which has raised the following points:

- There are issues over land ownership, which need to be resolved.
- There are tree preservation orders on most trees surrounding the site
- There are too many houses within Rossendale, and the proposed bungalows are not required.

The agent has submitted a supporting statement, which has raised the following issues:

- The proposed development is in accordance with the Interim Housing Policy in terms of Criterion 7 of Part C allows for housing development outside the 'priority locations' where development relates to previously developed land and where significant environmental benefit to local communities would result.
- Redevelopment of the caravan park will bring improvements, that will be clear environmental benefits to the local community, and it will do so on previously developed land.
- Part B restricts the scale of the development such that it does not threaten the overall strategy of the managed release of land.
- The scale of the development would not threaten the overall strategy in relation to the management of housing land.
- The proposal is specifically designed to meet an identified housing need in the Whitworth area. The 2004/05 Housing Need and Market Assessment specifically indicates that the demand for one bedroom properties and bungalows outstrips the supply in the Healey and Whitworth Ward.
- On discussion with the agent, the applicant is willing to undertake a detailed Arboricultural Survey and Report, should the application be approved.

## **Consultation Responses**

### **County Highways**

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

### **County Planning Officer**

Policy 1 of the Adopted Joint Lancashire Structure Plan (AJLSP) states that development to meet an identified local need or support rural regeneration outside of the Principle Urban Areas. Main Towns, Key Service Centres (Market Towns) and Strategic Locations for Development will be acceptable in principle. The proposed

development is not justified in terms of meeting an identified local need or assisting rural regeneration.

The proposed development is located in Whitworth and as such is subject to the provisions of Policy 5 of the AJLSP. Policy 5 states that outside Key Service Centres (Market Towns) most rural development will take place in villages and other settlements. Development at these locations will support rural regeneration by either meeting an identified local need for employment, community services or housing. Based on the information before me there is no evidence to suggest that the proposed development is required to meet an identified local need for housing.

Policy 12 of the AJLSP sets a maximum provision of 1920 dwellings over the plan period. The Policy specified an annual average dwelling provision in the period 2001-2006 equivalent to 1100 dwellings over the plan period. Total housing completions 2001 – April 2004 amounted to 546 dwellings. At the 1<sup>st</sup> April 2004 there were existing planning permissions for 1168 dwellings. Based on these figures I conclude that there are sufficient residential planning permissions to meet the Borough Council's housing requirement to 2006.

### RBC Estates

No response.

### RBC Forward Planning

The site is within the urban boundary and the site's existing use being residential curtilage and a caravan park, and therefore the land is classed as 'brownfield' land.

The site, as stated in the supporting statement received a planning refusal on application 2004/616, with the revised application referring to Part A of Objective 1 and Criterion 7 of Part C Rossendale Borough Council Interim Housing Policy prepared in 2004. Having considered the 968 consultation responses received and assessing the Interim Housing Policy the Council has concluded that the draft policy does not effectively address the issues facing the borough and a new Housing Policy Position Statement is required to reflect the status of residential development in Rossendale in respect to Policy 12 of the adopted Joint Lancashire Structure Plan 2001 – 2016.

The decision would be to recommend refusal of the application for residential development based on Policy 12 of the AJLSP through which there are already sufficient planning permissions to achieve the target of 1920 homes by 2016.

### RBC Drainage Engineer

Any culverted watercourses/land drains severed or located during the development must be picked up and reconnected or diverted. Details will be required and should include the route, size, materials, depth, levels and method of construction.

### RBC Tree Officer

The development would have the following impacts upon trees located both on and immediately adjacent to the site:

- Four trees are proposed for removal for the new access. These consist of three early-mature hawthorns along the frontage to Wallbank Drive and highly

visible from the public highway and one semi-mature ash located to the east of the hawthorns and only partially visible from the highway. In our opinion this would be acceptable on condition that new trees be planted elsewhere on the site in mitigation.

- The proposed new access runs between two moderate sized early-mature oak trees located to the road frontage, both of which confer a moderately high visual amenity value. The proposal plans specify the footpath as extending to 1 metre from the stem of the oak tree to the south side and 2 metres from the oak tree on the north side of the access. This would be unacceptable in arboricultural terms without special surfacing and working methods due to the likelihood of extensive root damage. Furthermore, there may be a highways issue in respect of visibility splays and vehicular access with regard to these trees.
- An oak and a sycamore in the site's south-eastern corner close to Plot 13, both of which are semi-mature and largely obscured from view from the public highway, are proposed for removal. Their removal is considered to be acceptable on condition that new trees be planted elsewhere on the site in mitigation.
- The proposed locations for Plot No's 8 to 13 extend up to a distance of 5.5 metres from the trees along the southern boundary and 4 metres from those along the eastern boundary. Several of these trees are mature, and under BS5837 (1991) Guide for Trees in Relation to Construction, could require a protective distance of up to 12 metres depending on their overall condition. In addition, many of the trees along these boundaries are large and have crowns that extend up to 6 metres over the site and to within 4 metres of ground level, distances that are within the outlines of the proposed structures. Light attenuation would therefore be an issue, in particular to the southern and eastern facing windows of plot 13, but also to the southern facing windows of the remainder plots.
- The existing access to the cottage runs over the roots of trees along the eastern and southern boundary. Any new surfacing/re-surfacing for this access road has potential to damage roots.

We would therefore advise that initially, the applicant provides a detailed Arboricultural Survey and Report, prepared by a qualified and experienced arboricultural consultant, to guidance provided in BS5337 (1991) Trees in Relation to Construction

### Whitworth Town Council

No objections, providing the planning officers are happy that the proposed development complies with the Rossendale District Local Plan.

### United Utilities

I have no objection to the proposal providing that the site is drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to River Spodden and may require the consent of the Environment Agency. The applicant must discuss full details of the site drainage proposals with United Utilities if the surface water is not to be discharged to the River Spodden.

A separate metered supply to each unit will be required at the developer's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999. Our water mains will need extending to serve any development on

the site. The developer, who may be required to pay a capital contribution, will need to sign an agreement under Sections 41, 42 & 43 of the Water Industry Act 1991.

### Environment Agency

The Agency has no objection in principle to the proposed development subject to the inclusion of conditions that meet the following requirements.

Surface water run off from this site should be restricted to existing rates in order that the proposed development does not contribute to an increased risk of flooding.

### Development Plan Policies

#### Rossendale District Local Plan

Policy DS1 (Urban Boundary) of the Rossendale District Local Plan states that *The Council will seek to locate most new development within the urban boundary and will resist development beyond it unless it complies with policies DS.3 and DS.5.*

Policy E4 (Tree Preservation) of the Rossendale District Local Plan states that *The Council will encourage the conservation of existing woodland, trees and hedgerows and will control development so that significant examples of each are protected from unnecessary damage or destruction.*

Policy DC1 (Development Criteria) of the Rossendale District Local Plan. The policy states that all applications for planning permission will be considered on the basis of a) location and nature of proposed development, b) size and intensity of proposed development; c) relationship to existing services and community facilities, d) relationship to road and public transport network, e) likely scale and type of traffic generation, f) pollution, g) impact upon trees and other natural features, h) arrangements for servicing and access, i) car parking provision, j) sun lighting, and day lighting and privacy provided k) density layout and relationship between buildings and l) visual appearance and relation to surroundings, m) landscaping and open space provision, n) watercourses and o) impact upon man-made or other features of local importance.

Policy DC2 (Landscaping) of the Rossendale District Local Plan states that *The Council will require the landscaping which will accompany all development proposals to be of a high standard and quality and at a scale appropriate to the development.*

Policy DC3 (Public Open Space) of the Rossendale District Local Plan states that *In areas of new residential development, the Council will expect appropriate public open space to be provided by the developers.*

Policy DC4 (Materials) of the Rossendale District Local Plan states that *Local natural stone (or an alternative acceptable natural substitute which matches as closely as possible the colour, texture, general appearance and weathering characteristics of local natural stone) will normally be required for all new development in selected areas. Within those areas roofs shall normally be clad in natural stone slab or welsh blue slate, or, in appropriate cases, with good quality substitute slates.*

Policy T4 (Car Parking) of the Rossendale District Local Plan states that *Development proposals will be required to provide, normally within the curtilage of*

*the development, sufficient space to meet both operational and non operational parking requirements.*

## Adopted Joint Lancashire Structure Plan 2001 – 2016

Policy 1 (General Policy) of the Joint Lancashire Structure Plan states that: Development will be located primarily in the principal urban areas, main towns, key service centres (market towns) and strategic locations for development and will contribute to achieving:

- a) the efficient use of buildings, land and other resources;
- b) high accessibility for all by walking, cycling and public transport, with trip intensive uses focussed on town centres;
- c) a balance of land uses that helps achieve sustainable development;
- d) accelerated rates of business development in the regeneration priority areas;
- e) appropriate development at Blackpool airport, ports and regional investment sites;
- f) urban regeneration, including priority re-use or conversion of existing buildings, and then use of brownfield sites;
- g) enhanced roles for town centres as development locations and public transport hubs;
- h) rural regeneration;
- i) a high quality built environment.

Other development to meet an identified local need or support rural regeneration outside principal urban areas, main towns, key service centres (market towns) and strategic locations for development will be acceptable in principle.

Policy 5 (Development outside of principal urban areas, main towns and key service centres (market towns)) of the Joint Lancashire Structure Plan states that: Development outside of the principal urban areas, main towns and key service centres (market towns) will be of a scale and nature appropriate to its location and will mostly take place in villages and other settlements identified in local plans/local development frameworks.

Development will support rural and urban regeneration by meeting an identified local need for housing or community services or by providing for local employment opportunities that maintain, or strengthen and diversify the local economy, including farm diversification and sustainable tourism development

Policy 12 (Housing Provision) 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.

## **Other Material Planning Considerations**

### PPS1 (General Policy and principles)

Government guidance in the form of PPS1 emphasises that development should be sustainable and states that there is a need to achieve a balance between promoting economic prosperity and protecting the natural and built environment. It also identifies ways in which mixed use development can be promoted, and provides advice on design matters.

Paragraph 7 states that “Urban regeneration and re-use of previously- developed land are important supporting objectives for creating a more sustainable pattern of development. The Government is committed to:

- a) concentrating development for uses which generate a large number of trips in places well served by public transport, especially in town centres, rather than in out of centre locations; and
- b) preferring the development of land within urban areas, particularly on previously-developed sites, provided that this creates or maintains a good living environment, before considering the development of Greenfield sites.”

### PPG3 (Housing)

Government guidance in the form of PPG 3 (Housing) states that sites for housing should be assessed against a number of criteria namely the availability of previously-developed sites, location and accessibility, capacity of existing and potential infrastructure, ability to build communities and the physical and environmental constraints on development of land.

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

Paragraph 31 highlights the importance of the location and accessibility of housing sites to jobs, shops and services by modes of transport other than the car.

### PPG13 (Transport)

Government guidance in the form of PPG13 states in paragraph 19 that *“A key objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling.”*

### RBC Draft Interim Housing Policy

#### **Planning Issues**

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

The site is sustainably located and is within easy walking distance of schools and a quality bus route corridor. The site is classed as a ‘brownfield’ site and therefore the proposed development is in accordance with PPG3 (Housing).

The proposed development will have an impact upon the surrounding properties. In particular Nos 23 Eastgate, as Plots 1 and 2 are approximately 1.5 metres and 7 metres from the boundary and No. 23 Eastgate respectively. However, it is proposed to erect a fence on top of an existing wall, which will be in total 1.8 metres high. This coupled with the fact that the proposed dwellings will be bungalows will protect the privacy of the occupiers of both properties. The proposed dwellings will replace an existing building and will not have a significant enclosing impact upon residential amenity. Therefore, the proposed development is in accordance with Policy DC1 of the Rossendale District Local Plan.

The proposed development is in accordance with the Council’s adopted car parking standards and the highways authority has raised no objection to the proposed development, subject to relevant conditions, concerning visibility. Therefore the

proposed development is in accordance with Policy DC1 of the Rossendale District Local Plan.

The applicant has stated that one bedroom bungalows are currently required within the Healey and Whitworth Ward. A petition of 274 names of local people has been received in support of the application as 'the development will provide the type of housing which is needed in Whitworth'. The Adopted Joint Lancashire Structure Plan identifies the main development locations within the borough and Whitworth and therefore this application site is outside of the main development locations. Therefore development must support rural and urban regeneration by meeting an identified local need. While, the proposed development may meet an anecdotally identified local need in terms of one bedroom bungalows within the area, the view of the County Planning Officer is that 'based on the information before me there is no evidence to suggest that the proposed development is required to meet an identified local need and is therefore contrary to Policies 1 and 5 of the Joint Lancashire Structure Plan.

One major issue associated with this application is that of housing supply. Policy 12 (Housing Provision) of the Structure Plan states that 1920 dwellings are required to be built within the Borough between 2001 and 2016 in order to adequately house the Borough's population. It further states that these are to be provided at the rate of 200 properties per year until 2006 and 80 per year thereafter. In view of this, and on the basis that only 431 properties were constructed between 2001 and September 2003, it would seem reasonable to assume that there is currently a shortfall of some 1489 dwellings in the Borough. However, at 1 April 2003 there were 1606 planning permissions that were, and still are, capable of implementation. In view of this it is contended that the Council's current housing targets for 2016 can reasonably be met. With this in mind it is contended, despite the applicant's agents views to the contrary, that the additional 13 dwellings proposed by this application are not currently required to meet the housing land provision of the Borough.

It is noted that the applicant in support of the application has made reference to the Council's Draft Interim Housing Policy, in terms of Part A of Objective 1 and Criterion 7 of Part C. However, after considering the responses received during a six week consultation period, the Council has concluded that the draft policy does not effectively address the issues facing the borough and a new Housing Policy Position Statement will be published in the near future to better reflect the status of residential development in Rossendale. Therefore the Draft Interim Housing Policy should no longer carry weight in the determination process.

The proposed development will impact upon the trees, which currently bound the site. The proposed new access will involve the removal of four trees and a further two trees will require removal to accommodate plot 13, both of which will have no adverse impact. However, the proposed development has the potential to cause extensive damage to the roots of trees along the eastern and southern boundary and two moderately sized early-mature oak trees located to the road frontage. Light attenuation will be an issue for Plots 8 to 13, as the trees on the southern and eastern boundaries are large and are in close proximity to the proposed dwellings. Therefore, the proposed development will be contrary to Policies E4 and DC1 of the Rossendale District Local Plan.

On balance, it is considered that greater weight should be given to the objections of the County Planning Authority relative to the issues of housing supply than to the



brownfield and sustainability issues, which alone might otherwise have supported the grant of planning permission.

### **Recommendation**

That planning permission be refused for the following reasons:

### **Reasons**

1. It is considered that the development is not currently required to meet the housing requirements of the Borough. The proposal is therefore considered to be contrary to the provisions of Policy 12 of the Joint Lancashire Structure Plan 2001 – 2016.

2. It is considered that the development is not currently required to meet an identified local need or to assist in rural regeneration. Therefore the proposal is considered to be contrary to Policies 1 and 5 of the Joint Lancashire Structure Plan 2001 – 2016.

3. It is considered that the proposal is not achievable without compromising the structural integrity and health of protected trees and due to the positioning of the proposed dwellings, subsequent repeated requests for tree removals and pruning would be generated. Therefore the proposal is considered to be contrary to Policies E4 and DC1 of the Rossendale District Local Plan.

### **Local Plan Policies**

DS1  
E4  
DC1  
DC2  
DC3  
DC4  
T4

### **Structure Plan Policies**

Policies 1, 5, and 12.