

concern about the implications of the proposal for vehicular access to his own house and others accessed via Clara Street.

Committee was minded to approve this reserved matters application, subject to the conditions recommended in the report, but resolved that :

“Prior to the issue of a decision notice delegated authority be given to the Head of Planning, Legal and Democratic Services, the Team Manager Development Control and the Chair to discuss with the applicant the issue of access and existing rights of passage for the residents of Shed Street, Clara Street and Size Street, and that:

a) subject to agreement being reached an approval of reserved matters be issued subject to the conditions set out in the report together with such additional conditions as may be deemed necessary or

b) in the event that agreement cannot be achieved the Team Manager be given delegated authority to issue a refusal of planning permission.”

As a result a meeting was arranged involving : the Applicant and its Agent; the public speaker against the application and another resident objecting on the basis of the implications of the proposal for their vehicular access; and the Vice Chair of Committee and your Officers.

The two Objectors reside at 537 and 541 Back Market Street, a pair of houses that face towards the application site. Whilst not arguing that they have a legal right to drive over the application site, the Objectors said that they drive their vehicles down Shed Street and over the application site to pass between Market Street and their houses. This is because Size Street and the part of Clara Street behind 543-553 Market Street are of restricted width/become obstructed with parked cars. It was said that the dust bin wagon and traffic associated with a car repair garage adjacent to their houses similarly pass over the application site.

The Applicant advised that there was no legal right for anyone to pass over the application site in this manner. However, it tabled two proposals:

OPTION ONE

To reduce the likelihood of that length of Clara Street behind 543-553 Market Street becoming obstructed by waste bins being left there/difficulties for bin-collection it was willing to form a Bin Storage Area within its site for use by the occupiers of the existing properties. This bin storage area could be formed without loss of any of the trees which presently run along the boundary between the application site and Clara Street.

OPTION TWO

It was willing to widen by 2.2m that length of Clara Street behind 543-553 Market Street. By doing this there would be less likelihood of parked cars/waste bins associated with 543-553 Market Street obstructing vehicular access between Shed Street and the Objectors properties/difficulties for bin-collection. However, this option would necessitate the felling of 4 mature trees on the boundary between the application site and Clara Street which their originally

submitted layout proposed to retain (as the Outline Permission conceived). They are willing to undertake replacement planting for the 4 mature Lime trees thereby lost.

The Objectors did not consider Option One to adequately address their access concerns. The Vice Chair advised that if Option Two was to be pursued the application ought to be referred back to Committee in order that it could weigh the access benefit arising from this option against the detriment arising from the loss of trees.

Amended drawings have now been received in respect of Option Two. Accordingly, the application is being reported back to Committee for determination.

The letter from the Agent which accompanied the amended drawings advises that the length of Clara Street behind 543-553 Market Street will thereby have a width of 9.5m. This being the case it does not consider it also necessary to provide the Bin Storage Area within their site for use by the occupiers of the existing properties; however, if the Committee considers the Bin Storage Area also to be necessary it is willing to provide it. It further advises that although 4 mature trees on the boundary between the application site and Clara Street will be lost, other mature trees forming part of this group are to be retained and replacement planting will be undertaken.

A copy of the amended drawing has been sent to the residents of 537 and 541 Back Market Street. Should further comments be received from them they will be reported to Committee.

1.2 Assessment

The Head of Street Scene & Liveability advises that in the past difficulties have arisen in providing a reliable bin –collection service to properties served off Clara Street, most particularly because of cars parked to the rear of 543-553 Market Street. It considers implementation of either Option 1 or Option 2 would be beneficial.

Implementation of Option 2 would be more likely to avoid vehicular access to 537 and 541 Back Market Street, and the adjacent car repair garage, becoming obstructed by cars parked behind 543-553 Market Street.

Construction of the Bin Storage Area proposed by Option 1 is possible without removal of any trees, whereas widening of the section of Clara Street proposed by Option 2 would entail felling of 4 mature trees. This being the case it is appropriate to consider whether the benefit of Option 2 for the occupiers of existing properties will outweigh the loss of these trees.

The report to the Committee meeting in January 2004 in respect of Application 2003/252, seeking Outline Permission for the residential re-development of the site, referred to 2 groups of trees within the site which it would be desirable to retain - one group comprising of trees bounding the River Spodden and the other group occupying a triangular area of land bounding Clara Street/to the rear of 543-553 Market Street.

Within the triangle of land are 11 mature trees, varying in species, stature, physical condition and visual amenity value. The physical condition of 2 of them is such it would not be appropriate for them to be retained. The Site Layout recommended to

the January 2007 meeting for approval proposed the retention of 7 of the trees in the group, including a line of 4 mature Lime trees on the boundary between the site and Clara Street. Widening of Clara Street as proposed in Option 2 would result in the loss of the latter 4 trees. However, the amended Site Layout for which approval is now sought does provide for retention of 5 of the trees in the group. The retained trees will not screen the proposed houses from existing properties to the same extent. However, the window-to-window distance between the proposed and existing properties exceeds the Council's spacing standards and the applicant has indicated that they are will to undertake replacement planting on the newly-formed boundary of Clara Street.

6. CONCLUSION

Due to the loss of the 4 mature trees which Option 2 will entail the decision between it and Option 1 is, in my view, finely balanced.

While the loss of these trees is to be regretted, on balance, it is considered appropriate to recommend Reserved Matters Approval requiring implementation of Option 2.

7. RECOMMENDATION

That Reserved Matters Approval be granted subject to the Conditions in the January 2007 report and that below :

Prior to the commencement of construction of any of the permitted dwellings the specification and timetable for widening of Clara Street as shown on RA Fisk Associates Drawing No 2536/02 H shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented to the satisfaction of the Local Planning Authority in accordance with the approved timetable.

Reason : To provide/retain safe and satisfactory vehicular access to existing properties to the east side of the application site, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

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Application No: 2006/608		Application Type: Reserved Matters	
Proposal:	Erection of 19 Houses and a Block of 9 Apartments	Location:	Bridge Mill, North Street, Whitworth
Report of:	Development Control Team Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	9 January 2007
Applicant:	Audbury Projects Ltd	Determination Expiry Date: 1 February 2007	
Agent :	RA Fisk Associates		

REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	<input type="checkbox"/>
Member Call-In	<input type="checkbox"/>
Name of Member: Reason for Call-In:	
3 or more objections received	X
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 Proposal Site

This application relates to an irregularly-shaped site in Whitworth formerly occupied by a mill which took access from North Street, Shed Street and Size Street.. Having an area of approximately 0.7ha, the site has recently been cleared of buildings. This has

made more evident the River Spodden which runs through the middle of it and the mature trees which bound it and the group of mature trees bounding Clara Street.

Whilst the site is bounded on its north and west sides by housing, to the south side are Whitworth Museum and commercial premises and to the east side are houses and shops with living accommodation.

1.2 Relevant Planning History

On 21 January 2004 Outline Permission was granted for the residential redevelopment of the site (2003/252). This permission was subject to a number of conditions, including ones requiring :

- A) a density of development of not less than 40 dwellings per hectare (ie not less than 28 units); and
- B) the development be served only off North Street.

1.3 The Proposal

Approval is now sought for the reserved matters, namely siting, design , external appearance and landscaping.

As first submitted the scheme proposes the erection of 31 units of accommodation on the site, to comprise of 11 2-bedroomed apartments, 13 3-bedroomed houses 7 4-bedroomed houses.

The principal elements of the scheme were as follows :

- Erection on the site frontage to North Street of a terrace of 6 houses with 3 floors of accommodation, each with an indented terraced-garden in the front roof-plane and a dormer to the rear.
- Construction of a new road between this terrace and the Museum and to run adjacent to the river, the houses to be constructed to its east side to have their backs face towards Clara Street, in part screened from view by the retention of some of the trees in the group close to this boundary.
- De-culverting of part of the river, the land to the west side of it to be reached by 2 bridges, where a 3-storey block of apartments and 2 & 3-storey houses are to be built.
- The buildings are to be constructed with artificial-stone walls and roofs of either grey tile or artificial slate, except in the case of the apartment block which will differ somewhat in design and facing materials. It is to have a mansard roof and the upper part of its walls are to be rendered.
- While those properties to the east side of the river will, in the main, possess in-curtilage parking, those to the west side will be have communal parking facilities.

The application was accompanied by a series of documents :

- A Flood Risk Assessment which has established to the satisfaction of the Environment Agency the minimum floor levels to be used to mitigate the risk of flood risk.
- A Ground Investigation & Risk Assessment establishing that there is a need for building foundations to incorporate measures to prevent the ingress of landfill gas, with soft-landscaped areas to be capped to a depth of not less than 0.3m with imported soil.

- A Design Statement indicating that the scheme has been designed to make an asset of the river running through the site; retain those trees of particular amenity value; utilise facing materials that reflect the local vernacular, whilst giving the buildings a contemporary feel.
- A Tree Appraisal Report in respect of the 26 individual trees on/bounding the site and 2 groups of trees (principally of self-set willow). It recommends felling of 6 of the individual trees and one of the groups of willow, thereby retaining the majority of the mature trees bounding the river and close to Clara Street.
- A Bat Survey indicating that whilst the trees on the site do not appear to possess the cavities in which bats can hibernate, the riverside trees in particular provide a useful feeding-area, the river linking with Healey Dell Nature Reserve. Although no bats were found to be present in the buildings (now demolished), it has not to date been possible to establish whether the culvert is used by bats to roost. Accordingly, it recommends that alternative potential roosting places must be provided within the development and culverting that is to be retained is not pointed-up at a time of year/in a manner likely to diminish its value for roosting bats.

As a result of concerns expressed by local residents and a number of consultees, I sought amendment of the proposal. The scheme has now been amended as follows :

- To give the terrace of properties to front North Street a more traditional feel, the indented terraced-gardens have been deleted and chimney stacks introduced on the front elevation, and the dormers deleted from the rear elevation.
- The apartment block has been reduced from 11 units to 9, entailing a change from a 3-storey block with mansard roof to a 2-storey block with a hipped-roof, incorporating chimney stacks.
- One of the houses proposed to the rear of houses fronting Brenbar Crescent has been deleted and two others have had their fenestration amended, thereby distancing proposed buildings from trees within the site worthy of retention and reducing the impact of the development on the neighbouring properties.
- Parking is now proposed on the basis of 2 spaces for each 4-bedroomed house and 1.5 spaces for each 3-bedroomed house and apartment.

1.4 Policy Context

Rossendale District Local Plan (Adopted 1995)

- DS1 - Urban Boundary
- E4 - Tree Preservation
- E7 - Contaminated Land
- E9 - Pollution
- DC1 - Development Criteria
- DC2 - Landscaping
- DC4 - Materials
- J3 - Existing Employment Areas

Joint Lancashire Structure Plan (Adopted 2005)

- Policy 1 - General Policy
- Policy 5 - Development Outside Principal Urban Areas, etc

- Policy 7 - Parking
- Policy 20 - Lancashire's Landscapes
- Policy 21 - Lancashire's Natural & Manmade Heritage
- Policy 24 - Flood Risk

Other Material Planning Considerations

PPS1

PPS3

PPS9

PPG13

PPS23

PPS25

RPG

LCC Parking Standards

LCC Landscape & Heritage SPG

2. CONSULTATIONS

LCC (Planning) considers that the proposed development is contrary to Policy 12 of the Structure Plan and will contribute unacceptably to housing oversupply in the borough. It further advises that the proposal appears to accord with the adopted Parking Standards, but a contribution of £36,660 should be sought from the developer to address specific transport and accessibility issues, most particularly the bus services/ facilities on Market Street.

In respect of the originally submitted scheme it advised that the site lies within the Settled Valleys landscape character tract, wherein its Landscape & Heritage SPG recommends that new development be of high density reflecting the characteristic compact, linear terraced form and encourage the use of local building materials. In this instance the stepped arrangement of a number of the proposed buildings conflicts with the traditional layout of the surrounding residential properties, nor maximises the opportunities to relate the scheme to the river and thereby create attractive communal spaces adjacent to it. Although the layout indicates trees of particular amenity for retention, the long-term viability of some of them is threatened; even if the buildings can be built so close to them without harm, the trees will cause undue loss of light to windows/gardens of future residents. Certain of the proposed buildings are unduly close to the party-boundary with existing houses, in particular the 3-storey apartment block.

LCC's Ecologist advises that Bats and Water Voles are protected species under the Wildlife & Countryside Act 1981(as amended). "There can therefore be no favourable determination of the application until the presence/absence of bat roosts has been confirmed. If bat roosts are present then the applicant will need to submit a method statement for approval before the application can be determined, detailing how detrimental impacts on the conservation status of the bat population will be avoided during and after the development." Sections of the River Spodden contain suitable habitat for water voles and any permission should be conditioned to ensure the site is surveyed for their presence and the river corridor suitably retained/restored to enhance its wildlife value. Additional information has now been submitted indicating that a suitably qualified ecologist has now inspected the culverts and found no bats or signs of bats, nor did they find water voles or consider the existing environment

suitable for them. Nevertheless, the apartment block is to incorporate bat roosts.

LCC (Highways) raises no objection in principle. It initially raised concerns about the adequacy of the parking arrangements to be made available for occupiers of the terrace to front North Street and the overall number of spaces. The amendments result in each of the houses in the terrace fronting North Street to have in-curtilage parking and to reduce the overall number of dwellings. The Highway Authority's detailed comments are awaited in respect of latest site layout.

The Environment Agency raises no objection to the application subject to construction of the buildings with the floor levels it has stipulated as necessary to mitigate the risk of flooding. It is satisfied that the site layout provides it with the unimpeded access to one side of the river it requires for maintenance purposes; any works within 8m of bank top would require its consent.

United Utilities initially objected to the application on the grounds that the submitted layout would result in built development over/too close to a public sewer that crosses the site. The applicant has now reached 'agreement in principle' for diversion of the sewer.

RBC Environmental Health do not consider the ground contamination issue to be such as to warrant objection to the proposal.

3. REPRESENTATIONS

Letters have been received from the residents of 3 houses immediately to the west of the site, objecting to the application for the following reasons :

- The erection of 3-storey buildings is not in-keeping with this small rural village/the adjacent Museum, nor does use of dormers/roof-terraces reflect the local style of housing.
- The erection of 3-storey buildings so close to the site boundary will result in unacceptable loss of light/privacy for occupiers of existing properties.
- The scheme will result in the loss of trees/ with consequential detriment for wildlife.
- The scheme proposes family-housing and will exacerbate existing problems with children. Can more amenity space/a play area be incorporated.
- There is now indication of how children will be protected from the river.
- The plans do not show where bins will be stored.
- The proposal will add to traffic/ dangers at the North St/Market St junction.
- The scheme proposes too little parking and some of the spaces proposed are not directly adjacent to the dwelling they are to serve.

The owner of 541 Market Street has expressed concern that the re-development of the site will limit access to their own property. Whilst the applicant owns half the width of the road in front of 537-541 Market Street, the submitted layout does not propose to take this land into the development site/away from its existing users.

4. Assessment

The principle of residential development of this site has been established by the earlier grant of outline planning permission, as too has use of North Street as the means of access.

Accordingly, the main issues to be considered in relation to the current application are : 1) design & appearance; 2) neighbour amenity; 3) traffic/parking; & 4) wildlife.

Design & Appearance

The applicants wish to develop the site in a manner that utilises facing materials reflecting the local vernacular, whilst giving the buildings a contemporary feel, is one I support. So too their wish to de-culvert a section of the river running through the site and arrange the properties to face towards the river, save for the terrace proposed on the frontage to North Street.

By reason of the amendments to the terrace proposed on the frontage to North Street and to the apartment block I am now satisfied that neither of these buildings will appear unduly prominent or intrusive in the street-scene.

The Tree Appraisal Report submitted by the applicant has properly assessed the physical condition and visual amenity value of the trees within and bounding the site. As amended, the layout now provides for buildings to stand sufficiently far from trees warranting retention to enable construction without damage and avoid occupiers of the proposed houses from the outset wishing to prune/remove them to get light into windows/gardens.

Neighbour Amenity

The shape of the site, with the trees and river cutting through it, does not make this an easy site to develop at the density required by the outline permission. The reduction in density from 31 to 28 units (the minimum required by the Outline Permission) has ensued the proposed buildings will not detract to an unacceptable extent from the amenities residents of neighbouring houses could reasonably expect to enjoy. I say this most particularly about the apartment block (reduced from 3 to 2 storeys) and the houses proposed behind the properties fronting Brenbar Crescent (1 deleted altogether and 2 others changed to avoid first floor windows facing the party boundary). It remains the case that a couple of houses are proposed behind one on Brenbar Crescent, but the existing property has a rear gardens of 16+m in length and the proposed houses will be on land which is approximately 1.5m lower and be of conventional 2-storey height, with no habitable room windows facing the boundary.

Traffic/Parking

Although representations from neighbours question the adequacy of the local highway network to accommodate additional traffic this issue was considered at the outline stage. The submitted scheme proposes construction of a footway along the site frontage to North Street (none exists at present) and formation of the new access in accordance with the Highway Authority's wishes.

Likewise, the request by LCC(Planning) for a financial contribution towards public transport contributions can not now reasonably be asked of the applicant at the reserved matters stage.

Wildlife

As a result of the additional survey work undertaken on the applicants behalf, and the intention to incorporate bat roosts within the apartment block, I am satisfied that the

applicant has adequately addressed the concerns originally raised about the impact of the proposal on wildlife.

6. CONCLUSION

There is no objection to the principle of residential re-development of the site. As a result of the amendments that have been made to the scheme I am now satisfied with its details.

7. RECOMMENDATION

That reserved matters approval be granted subject to the following conditions :

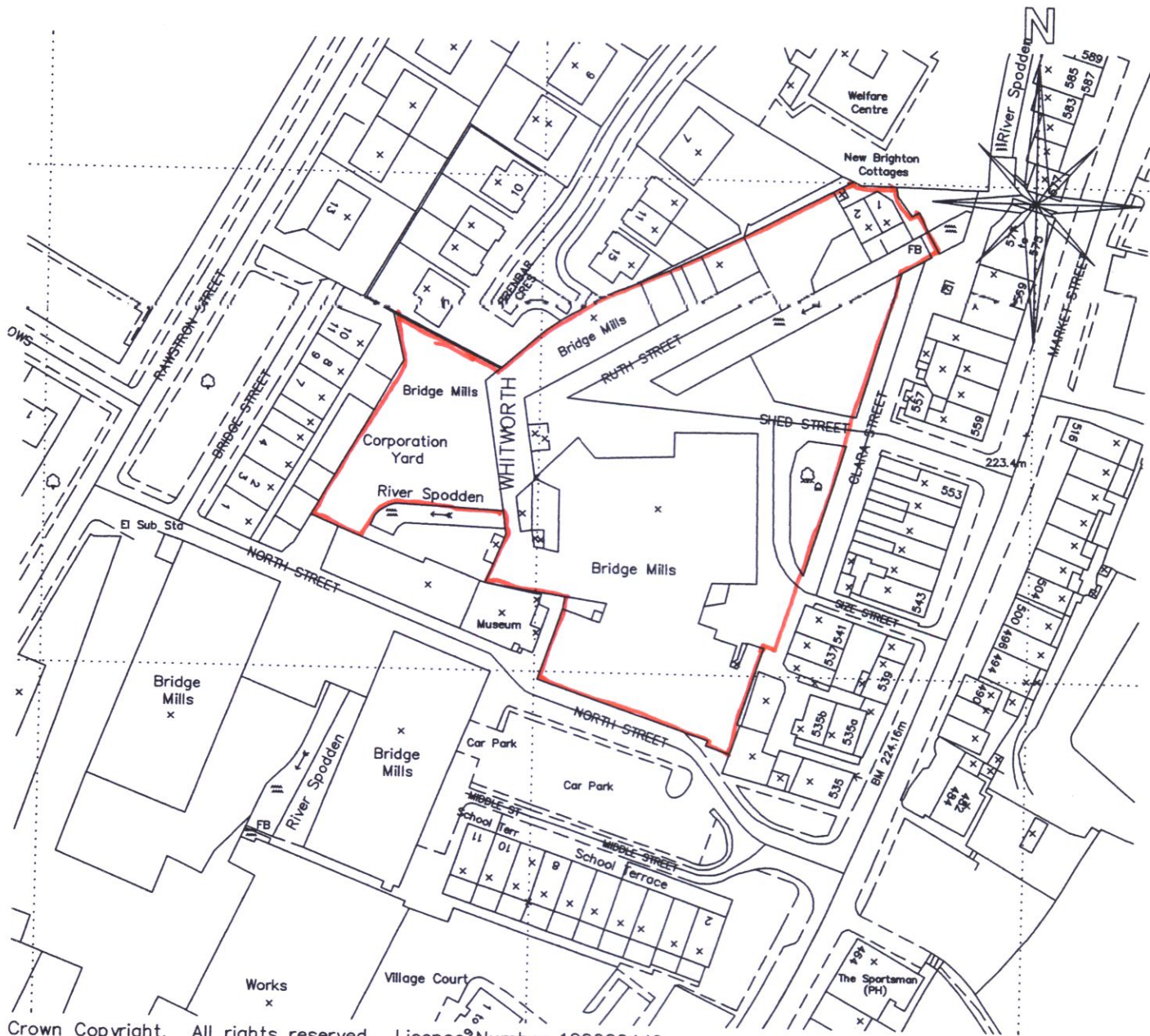
1. The development hereby permitted shall only be carried out in conformity with the proposed ground and building slab levels shown on the approved plan(s) or as may otherwise be agreed in writing with the Local Planning Authority before any development is first commenced. *Reason: To protect the appearance of the locality and in the interests of the amenities of local residents and in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*
2. No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans. *Reason: To ensure a satisfactory means of drainage, in accordance with the comments of the Environment Agency and the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*
3. The development hereby permitted shall not commence until full details of the colour, form and texture of all external facing materials to the proposed buildings have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any details shown on the previously submitted plans and specification. The submitted details shall provide for first floor windows in the NW elevation of Units 15 & 16 and first floor windows in the NW elevation of the apartment block, to be obscure-glazed and any opening-light top-hung. The development shall only be carried out using the approved external facing materials. *Reason: To protect the appearance of the locality and in the interests of the amenities of local residents and in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*
4. No development shall take place until a scheme of landscaping/boundary treatment has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The submitted scheme shall provide details of the intended bin store, of the protection to be afforded during construction to planting to be retained, of all works beneath the crowns of trees to be retained, of the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform. *Reason: In the interests of the amenity of the area, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*

5. All hard-surfaced areas/walls/fences forming part of the approved scheme of landscaping/boundary treatment shall be completed prior to first occupation of the building, unless otherwise agreed in writing with the Local Planning Authority. All new planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following substantial completion of the building. Any trees or plants in the approved scheme of landscaping which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased 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 the interests of the amenity of the area, in accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*

6. Before the building to which they relate is first occupied, the parking and vehicle manoeuvring areas shall be surfaced or paved, drained and marked out all in accordance with the approved plan and to the satisfaction of the Highway Authority. The parking and vehicle manoeuvring areas shall not thereafter be used for any purpose other than the parking of and manoeuvring of vehicles. *Reason: To ensure adequate on site provision of car parking and manoeuvring areas in and accordance with the criteria of Policy DC1 of the adopted Rossendale District Local Plan.*

7. Prior to the commencement of development full details of the measures to be incorporated in the apartment block for the benefit of bats, together with a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved timetable. *Reason: In the interests of wildlife, and to accord with Policy 21 of the adopted Joint Lancashire Structure Plan.*

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LOCATION PLAN

Bridge Mills, North Street, Whitworth

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