



TITLE: 2004/890: (OUTLINE) ERECTION OF TWO DETACHED DWELLINGS, LAND BOUNDED BY TODMORDEN ROAD AND GREENSNOOK TERRACE, SOUTH OVER CLOVER HILL, BACUP.

TO/ON: DEVELOPMENT CONTROL COMMITTEE 28 APRIL 2005

BY: TEAM MANAGER: DEVELOPMENT CONTROL

DETERMINATION EXPIRY DATE : 11 FEBRUARY 2005

APPLICANT: MR. E.M. YATES

Human Rights

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

Article 8

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

Article 1 of Protocol 1

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

Site and Proposal

The application site is an irregularly shaped plot of grassed land of approximately 0.32 hectares in area. It is located approximately 50 metres north east of the junction of Earnshaw Road and Todmorden Road in an area of predominantly residential development.

Outline planning permission is sought to erect two dwellings on the land. The applicants have requested that the siting of those dwellings, and the proposed means of gaining vehicular access to them, be formally considered as part of this application.

The application is being reported to Committee because a Councillor (Councillor Challinor) has requested that it be dealt with in this manner.

The site falls within the Urban Boundary as defined by the Rossendale District Local Plan.

Relevant Planning History

2004/280 – (Outline) – Erection of two detached dwellings with detached garages and associated parking accessed from Greensnook Terrace – Refused 21 July 2004 on highway and policy grounds.

Notification Responses

The application was advertised by way of site notices. 19 letters of objections, including one from the Ramblers Association, and a petition containing 32 signatures have since been received. The objections are:-

- a) that the land in question does not constitute 'residential curtilage' and there is case law to support this claim. The land has previously been used as allotments and for general communal use and is physically separated from surrounding residential properties by walls and a narrow carriageway. Furthermore, the current occupier of 1 Clover Hill neither owns it nor has permission to use it. With this in mind the site should be treated as 'greenfield' and as such any proposal to develop it for residential purposes should be viewed as being contrary to current Government advice as set out in PPG3.
- b) that the additional housing, proposed by this application, is not currently required to meet the housing needs of the Borough,
- c) that an approval of this proposal would exacerbate existing problems of traffic congestion on the surrounding road network especially on roads that are not capable of satisfactorily accommodating additional vehicular traffic (such as Greensnook Terrace),
- d) that the development would exacerbate existing problems of 'on-street' parking on the surrounding roads, and would reduce the level of 'on-street' parking space currently available for existing residents,
- e) that an approval of this proposal would increase the vehicular use of the substandard Greensnook Lane/Greensnook Terrace junction to the detriment of highway safety in the area,
- f) that the proposal would likely lead to conflict between vehicles entering and exiting the application site and pedestrians using the adjoining public footpath to the detriment of the safety of the latter,
- g) that the Transport Assessment, submitted with the application, is not independent and does not therefore come to a balanced view with respect to the traffic implications of this proposal,
- h) that the development would detract from the character and appearance of the area and would adversely affect the setting of nearby Listed Buildings,
- i) that the level of privacy, currently enjoyed by the occupiers of surrounding residential properties, would be adversely affected if this development was to go ahead,
- j) that the proposal would lead to the loss of trees (some of which are protected) to the detriment of the visual amenity of the area,
- k) that the development would unduly disturb the habitat of local wildlife,
- l) that the development is not required in order to assist in the regeneration of Bacup,
- m) that an approval of this proposal would lead to the loss of a safe play area for children,
- n) that the value of residential properties surrounding the site would be adversely affected if the site was to be developed as proposed,

- o) that an approval of this application would encourage the applicant to seek to erect more than two dwellings on the site in the future,
- p) that certain of the local residents would be unable to properly access their properties if the site was to be developed as proposed, and
- q) that the applicant does not have any legal right of access over the access from Todmorden Road.

The applicant's agent has submitted supporting information, a Transport Assessment and a sworn affidavit in support of this application. They argue that approval should be given for the proposal because:-

- a) it meets the requirements of PPG3 (this is 'previously developed' land forming part of the curtilage of a residential property; the site is conveniently located close to Bacup Town Centre and a bus route; the land is located within the defined urban area; and the proposal seeks to make more efficient use of urban land). A sworn affidavit has been submitted with the application in which the applicant declares that the land was used as domestic garden by both 1 and 2 Clover Hill certainly until about 1996. Putting this aside, even if the land is ultimately viewed as 'greenfield' the proposal still meets the requirements of PPG3 and as such is acceptable.
- b) it meets the requirements of all other relevant planning policies and Government Guidance,
- c) the development will be in keeping with the character and appearance of the locality and will not adversely affect the privacy of surrounding residents,
- d) it will be acceptable in highway safety terms - the addition of two dwellings should not lead to a significant increase in vehicular use of the surrounding road network. Furthermore the proposal makes adequate provision for the 'off-street' parking and turning of vehicles, and for allowing those vehicles to safely enter Greensnook Terrace from the site. The proposal will also improve highway safety as it proposes the provision of a turning head at the end of Greensnook Terrace where no such facility currently exists, and the provision of four 'off-street' visitor parking spaces to compensate for 'on-street' spaces that may be lost as a result of this proposal. A Transport Assessment, submitted with this application, demonstrates that the development will not give rise to any undue highway safety problems concluding that it is fully compliant with national, regional and local transport guidelines,
- e) whilst it will lead to the loss of some trees, this will be offset by replacement tree planting,
- f) it will assist the Council in meeting its identified housing targets, and
- g) it will aid in the regeneration of this part of the Borough.

Consultation Responses

County Planning Officer

Object. Consider that the Council's housing target for 2006 can reasonably be met through the implementation of existing residential planning permissions. There is therefore no need for further housing at present especially on this 'Greenfield' site.

County Highways

Object. Contend that vehicles would have difficulty accessing the site from Greensnook Terrace because of the level of 'on street' parking that currently takes place on that highway. Are also concerned that the proposal would lead to the loss

of 'on street' parking spaces on Greensnook Terrace and that as such it would cause parking problems for local residents. Contend that it may be possible to overcome these concerns by accessing the site via the existing access from Todmorden Road.

RBC Engineers

No objections provided that the proposed access is slightly repositioned and re-aligned and satisfactory visibility is provided on either side. Consider that in order to satisfactorily accommodate these amendments it will be necessary to reposition the visitor parking area.

Development Plan Policies

Rossendale District Local Plan

Policy DS.1 (Urban Boundary) states that *"the Council will seek to locate most new development within a defined boundary – the Urban Boundary – and will resist development beyond it unless it complies with policies DS3 and DS5. The urban boundary is indicated on the proposals map"*

Policy DC.1 (Development Criteria) 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 T.4 (Car Parking) 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"*

Policy E.4 (Tree Preservation) states that *" The Council will encourage the conservation of existing woodland, individual trees and hedgerows and will control development so that significant examples of each are protected from unnecessary damage or destruction"*.

Joint Lancashire Structure Plan 2001-2016

Policy 1 states that development should be located primarily within the principal urban areas, main towns, key service centres (market towns) and strategic locations for development. Development outside of these areas will be deemed acceptable in principle if it meets an identified local need or supports rural regeneration. In all cases the proposals must satisfy certain specified criteria.

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.

Parking standards require the provision of a maximum of two car parking spaces for dwellings with between two and three bedrooms, and three spaces for dwellings with in excess of 4 bedrooms.

Other Material Planning Considerations

PPG1 (General Policy and principles)

Government guidance in the form of PPG1 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.”*

Planning Issues

Housing Supply

Policy 12 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 agent's views to the contrary, that the additional 2 dwellings proposed by this application are not currently required to meet the housing land provision of the Borough.

Highway Issues

Vehicular access to the proposed development is to be gained via Greensnook Terrace, a narrow road which currently experiences problems of 'on street' parking. Vehicles seeking to access the new dwellings via this highway, or vice versa, would therefore experience severe difficulties in manoeuvring into and out of the development site. With this in mind it is contended that an approval of this proposal would also not be in the best interests of highway safety, a view supported by County Highways. For Members information, the previous application, which also sought approval to access the site from Greensnook Terrace, was also refused in part for this reason.

PPG3 Issues

There has been some debate about whether this site can reasonably be classed as 'brownfield'. Objectors to the proposal contend that it is not for the reasons outlined in the 'Notification Responses' section above. The applicants assert that it is for the reasons outlined in the same section. On balance it is considered that there is currently insufficient conclusive evidence either way. It is difficult to properly ascertain, from merely viewing the site, exactly how this land is currently being used. Furthermore, whilst accepting that it is physically separated from any of the surrounding residential properties this does not necessarily prevent it from being classed as 'residential curtilage'. In view of this, given the similarity of this application to the previous submission, and given that that application was not recommended for refusal on grounds of being contrary to the requirements of PPG3, it is considered that it would be difficult for officers to justify recommending to Members that the application now before them be refused on such grounds.

Other Issues

Local residents have raised a number of concerns about the proposal (see 'Notification Responses' section above). Concern (b) is accepted for the reasons given above. The remaining concerns are not for the reasons given below:-

- a) it is contended that it would be possible to erect two dwellings, in the positions proposed, without unduly detracting from the appearance of the surrounding area. It is also contended that sited in these positions the dwellings would not adversely affect the setting of nearby Listed Buildings,
- b) it is contended that, apart from the highway issue outlined above, the proposal would not give rise to any other undue highway safety concerns. A development of two dwellings is unlikely to lead to a significant increase in vehicular use of the surrounding road network or of the Greensnook Lane/Greensnook Terrace junction. It is also unlikely that the proposal would exacerbate existing 'on street' parking problems as the site is considered to be large enough to accommodate the two houses, in the positions proposed, and satisfactory associated 'off street' car parking. Finally, it is contended that

any potential conflict, between vehicles entering and exiting Greensnook Terrace from the development site and pedestrians using the adjoining public footpath, could reasonably be avoided by imposing a condition, on any approval, requiring the boundary wall to the south of the proposed access to be suitably lowered (for reasons of visibility).

- c) it is contended that the proposed dwellings would not unacceptably overlook surrounding properties if sited in the positions proposed.
- d) development of this site, in the manner proposed, would lead to the loss of some trees. However, the previous application was very similar to this one but was not refused on such grounds despite the fact that it also proposed the removal of trees. With this in mind it is contended that it would be difficult to justify refusing this application for that reason,
- e) the site is not known to be the habitat of any protected wildlife,
- f) it is understood that the site has, in the past, been used as a recreational area for children. However, it is not a condition of any existing planning approval that it be retained as such nor are there any planning policies that currently require that it be retained in this use. Consequently, it is contended that a refusal of this application, on the grounds that it would potentially lead to the loss of such a facility, could not reasonably be sustained,
- g) concern has been expressed to the effect that if this application is approved the applicant will seek to erect more than two dwellings on the site. However, an approval of the current submission would allow solely for the erection of two dwellings. Should the applicant subsequently wish to erect additional housing units they would have to submit a further application for planning permission which would then be considered in the usual way,
- h) concerns about the likely effect that the development may have upon the value of surrounding properties or about legal rights of access (either to property or over specified accesses) are not planning matters and can not therefore be taken into consideration when determining this application.

Conclusion

The proposal is considered to be acceptable in all other respects or could be rendered so through the imposition of suitable conditions. Nevertheless it is considered that the concerns outlined above outweigh all other considerations in this instance. In view of this refusal of this application is recommended.

Recommendation

That outline planning permission be refused for the following reasons:

Reasons for Refusal

- 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 Proposed Changes (Deposit Edition) Joint Lancashire Structure Plan 2001 – 2016.
- 2) The access to the proposed development by way of Greensnook Terrace is of insufficient width having regard to the current regime of residents' parking, particularly from the proposed entrance to the development site. For this reason the development does not accord with Policy DC.1 of the Rossendale District Local Plan.

Local Plan Policies

DS.1

DC.1

E.4

T.4

Structure Plan Policies

Policies 1 and 12