



TITLE: 2004/893 : CONVERSION OF FORMER SHOP AND DWELLINGS TO FORM 5 SELF CONTAINED APARTMENTS, 55-61 MARKET STREET, WHITWORTH.

TO/ON: DEVELOPMENT CONTROL COMMITTEE 28 APRIL 2005

BY: TEAM MANAGER: DEVELOPMENT CONTROL

APPLICANT: ELTON LEWIS STATUS PROPERTIES

DETERMINATION EXPIRY DATE: 15 FEBRUARY 2005

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

57 to 61 Market Street are four vacant terraced stone and stone slate buildings. They were last used collectively as one shop. The premises are located approximately 40 metres south east of the junction of Station Road and Market Street in an area of largely residential development. This application seeks planning permission to convert the buildings into five one-bedroom apartments.

Relevant Planning History

None relevant

Notification Responses

The application has been advertised by way of site notices. Nine letters of objection have since been received from local residents. The objections are:-

- a) that an approval of this proposal would not be in the best interests of highway safety. The proposal makes no provision for the 'off street parking of vehicles and would therefore lead to additional 'on street' parking in the area at times when there is already an 'on street' parking problem. Vehicles so parked would also inhibit the visibility of vehicles entering Market Street from adjoining side streets and private driveways, and render it less safe for pedestrians to cross those highways,
- b) that the flats would unacceptably overlook neighbouring residential properties,
- c) that the existing drainage infrastructure would be unable to satisfactorily cope with foul water generated by the additional dwellings,
- d) that the proposal makes no provision for the storage of wheelie bins. Bins stored in front of the building would detract from the appearance of the street scene,
- e) that the proposal makes inadequate provision for escaping from the premises in the event of a fire,
- f) that the application description is misleading as the premises have not been used as dwellings in the recent past.

One local resident has suggested that it would be more appropriate to retain the building in commercial use.

The applicant's agent has submitted two letters in support of their application. They argue that planning permission should be granted for their proposal because:-

- a) it will aid in the regeneration of the area (it will bring the buildings back into productive use; improve their appearance and thus the appearance of the street scene; and lead to future investment in the area). There is little prospect of the buildings being brought back into use as a shop given their location, design and layout,
- b) use of the building as five residential units is likely to generate less 'on street' parking than a shop or other commercial uses,
- c) the proposal meets the requirements of PPG3. It seeks approval to convert existing buildings which are sustainably located on a bus route and close to local facilities,
- d) there is recent case law which supports the approval of proposals for new dwellings even where those dwellings are not required to meet the housing needs of the Authority in question,
- e) it will help to create a mix, and therefore a choice, of residential properties in the area. The properties are also likely to be attractive to first time buyers.

Consultation Responses

County Highways

No objections subject to the applicants entering into a Section 106 Obligation requiring them to contribute towards public transport infrastructure in lieu of 'off street' parking provision.

R.B.C.Engineers

Object. Concerned that no 'off street' parking is being proposed as part of this proposal and contend that this will lead to additional 'on- street' parking on Market Street.

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. Also consider that the proposal would be contrary to policies 1 and 5 of the Joint Lancashire Structure Plan.

Environmental Health

No observations received.

Whitworth Town Council

Support the proposal.

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 DC.4 (Materials) 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 HP.4 (New uses for Old Buildings) states that *" the Council will actively encourage new uses of old buildings or groups of old buildings which are of architectural or historic interest and also encourage private sector conservation initiatives provided that the change of use and alterations would be sympathetic to the character of the buildings and the proposed use does not detract significantly from the quality of the surrounding area"*

Policy T.4 (Car Parking) states that *" Development proposals will be required to provide, normally within the cartilage of the development, sufficient space to meet both operational and non operational parking requirements"*

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 5 states, in part, that outside of Principal Urban Areas, Main Towns and Key Service Areas (Market Towns) development of an appropriate scale and nature will normally take place in identified villages and other settlements. Such development should support rural and urban regeneration by meeting an identified local need for housing, employment or community services that maintain or strengthen the local economy (including proposals that aid farm diversification and sustainable tourism). Outside of villages and other settlements, conversion and re-development of existing buildings for employment purposes will be viewed as acceptable in principle. Limited 'new build' to meet identified local employment needs will also be viewed as acceptable but not within the Green Belt.

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.

The parking standards require a maximum of one car parking space to be provided in conjunction with dwellings with only one bedroom.

Other Material Planning Considerations

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

Principle

The Council's housing target for 2016 has already been partially met through the construction of existing properties and it is contended that it will be fully met if existing residential planning permissions are implemented. There is therefore no need for the provision of any further housing in the Borough at present and therefore clearly no need for the additional 5 dwellings proposed by this application. However, it is contended that in this instance there are strong overriding reasons for approving this proposal despite the lack of need, and these are set out below.

Whilst these are not Listed structures they are nevertheless attractive buildings which, due to their location fronting directly onto Market Street, occupy a very prominent position in the street scene. The buildings are currently in a rather 'run down' state and it is felt that this is having an adverse effect upon the appearance of the area. It is contended that their conversion to residential units would significantly improve their appearance and that this in turn would have a positive effect upon the appearance of the locality. It would also retain the buildings in productive use and for a purpose that would be in keeping with the surrounding area.

In addition to the above, the site is located within the Urban Boundary as defined by the Rossendale District Local Plan. The proposal therefore meets the requirements of policy DS.1 of that plan, which seeks to locate new development within such areas. The proposal also partially satisfies the requirements of policy 5 of the Structure Plan which requires, in part, that development outside of market towns be located within villages and settlements.

Finally, it is contended that the proposal largely meets the aims of PPG3. It involves the re-use of existing buildings which are sustainably located on a bus route. It also proposes relatively high density development equating to well in excess of 30 dwellings per hectare.

In view of the above it is considered that, despite the current lack of need for further housing in the Borough, the proposal to convert these buildings to residential use is, in this instance, considered to be acceptable in principle.

Design

It is considered that subject to the existing stone slate roof being retained the proposed conversion works will retain the character of these buildings. It is proposed to re-use virtually all of the existing openings and where new openings are proposed they will not, it is contended, detract from the character and appearance of the premises. Three new dormer windows are proposed but these will be relatively small in scale, will occupy relatively unobtrusive positions to the rear of the buildings, and a condition can be imposed requiring that they are constructed of appropriate materials. In view of this the proposal is considered to be acceptable in design terms.

Amenity

Despite concerns to the contrary it is contended that the proposal will not lead to any problems of direct overlooking of neighbouring land provided that certain of the

windows are obscure glazed to a height of 1.68 metres (5' 6") above finished floor level and screen fencing is erected around the rear patio area. Conditions to this end are therefore recommended. Given that the proposal does not involve any significant enlargement of the building, the level of sunlight and daylight currently received by adjoining properties will not be affected by the proposal.

Highways Issues

The proposal makes no provision for the 'off-street' parking of vehicles and none could reasonably be made given that the buildings occupy virtually all of the identified application site. Concern has been expressed, both by Rossendale Borough Council Engineers and local residents, that this would lead to additional problems of 'on-street' parking in the locality. However, given that the Council's current parking standards require more parking spaces to be provided for a shop of this size than for five one-bedroomed properties, and given that the shop could be brought back into use without the need to further apply for planning permission, it is contended that an approval of this proposal would actually potentially reduce problems of 'on street' parking in the locality. In view of this it is considered that no reasonable objection could be raised to this proposal on highway grounds.

County Highways raise no objections to the proposal but want the applicant to enter into a Section 106 Obligation in which they would agree to make a public transport contribution of £3000 in lieu of 'off street' parking provision. However, working on the basis that this development would not add to any existing highway safety problems that may or may not currently be occurring, and that it may even improve the existing highway safety situation, it is contended that it would be difficult to justify requiring the applicant to make such a contribution in this instance.

Other Issues

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

- a) the ability, or otherwise, of the existing sewerage system to cope with the additional demands put upon it by new development is not a planning consideration. This application can not therefore reasonably be refused on such grounds. If it is deemed that there is no spare capacity in the existing system to accommodate additional foul water the applicant would need to reconsider their proposals for draining the development. Failure to provide a suitable way of so doing could mean that the development would not go ahead even if planning permission was to be granted for it,
- b) a condition can reasonably be imposed, on any approval, requiring the applicant to submit details of their proposals for the storage of wheelie bins,
- c) details of the proposals for escaping from the premises in the event of an emergency do not need to be submitted with this application as they are not controlled under the current planning legislation (they are controlled under the Building Regulations),
- d) it is not known whether the premises were last used as dwellings. However, this is not considered to be especially relevant in this instance. The fact that the premises were previously used, at least in part, as a shop is however considered to be relevant for the reasons outlined in the 'Highway Issues' section above.

- e) the Local Planning Authority can not require this building to be brought back into use for commercial purposes. It only has the power to determine the acceptability, or otherwise, of development proposals that are submitted to it for consideration.

Recommendation

That planning permission be granted for the following reason and subject to the following conditions.

Summary of Reasons for Conditional Approval to Appear on Decision Notice

It is considered that the development satisfies the requirements of policies DS.1, DC.1, DC.4, HP.4 and T.4 of the Rossendale District Local Plan. It is contended, notwithstanding the Council's normal planning policy, that the creation of additional dwellings can be justified in this instance in the interests of retaining these attractive buildings and securing a compatible use for them. Furthermore, it is considered that the proposed conversion works will retain the character of the buildings and that the converted buildings will appear in keeping with, and relate in a satisfactory manner to, their surroundings. The proposal will not adversely affect the level of sunlight or daylight currently received by adjoining properties or give rise to unacceptable overlooking of those properties provided that conditions are imposed requiring the erection of screen fencing and the use of obscure glazing where appropriate. Finally, it is considered that the proposal will be acceptable in highway safety terms.

Conditions

01 The development permitted shall be begun before the expiration of five years from the date of this permission.

Reason:- The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990.

02 Notwithstanding the details given on the approved plans the natural stone slate roofs of the buildings shall be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason:- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4, and HP.4 of the Rossendale District Local Plan.

03 Notwithstanding the details given on the approved plans, all new areas of external wall and roof, other than those of the new dormer windows, shall be constructed of natural stone and natural stone slate unless otherwise agreed in writing by the Local Planning Authority. These materials shall match in type, colour, texture (and course depth in the case of the stonework) those used in the construction of the external walls and roof of the existing buildings.

Reason:- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4, and HP.4 of the Rossendale District Local Plan.

04 Notwithstanding the details given on the approved plans, details of the materials to be used in the construction of the roofs, cheeks and front elevations of the proposed dormer windows shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved dormer

windows shall be constructed in accordance with the approved details and thereafter retained at all times.

Reason:- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4, and HP.4 of the Rossendale District Local Plan.

05 All new heads, cills, window and door surrounds shall be constructed of natural ashlar stone. This shall match in type, colour and texture the stone used in the construction of the existing window and door surrounds.

Reason:- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4 and HP.4 of the Rossendale District Local Plan.

06 The new balustrades shall be painted/stove enamelled/colour coated black unless otherwise agreed in writing by Local Planning Authority. They shall be painted that colour within one month of being erected, or stove enamelled/colour coated black prior to being erected, and shall thereafter be retained at all times.

Reason:- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4 and HP.4 of the Rossendale District Local Plan.

07 Details of the design and proposed location of all new windows and doors to be installed within the buildings shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved windows and doors shall be installed in the approved positions before any of the dwellings hereby approved are first occupied and shall thereafter be retained at all times.

Reason:- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4 and HP.4 of the Rossendale District Local Plan.

08 No windows or other openings, other than those shown on the approved plans, shall, at any time, be formed within the buildings without the prior written approval of the Local Planning Authority.

Reason: :- In the interests of safeguarding the character and appearance of the buildings and the locality, in accordance with policies DC.1, DC.4 and HP.4 of the Rossendale District Local Plan.

09 The windows hatched red on approved drawing numbers 210/04/03A and 210/04/04A shall be obscure glazed to a height of 1.68 metres (5'6") measured from finished floor level unless otherwise agreed in writing by the Local Planning Authority. Details of the obscured glass to be used shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved obscured glass shall be installed in the approved positions before the dwellings hereby approved are first occupied and shall thereafter be retained at all times.

Reason: To safeguard the amenity of nearby residential properties, in accordance with policy DC.1 of the Rossendale District Local Plan.

10 1.8 metre high screen fences or walls, of a design to be agreed in writing with the Local Planning Authority before development commences, shall be erected between the points marked A-A, B-B and C-C on approved drawing number 210/04/01A. The approved fences or walls shall be erected in the approved positions before the dwellings hereby approved are first occupied and shall thereafter be retained at all times.

Reason: To safeguard the amenity of nearby residential properties, in accordance with policy DC.1 of the Rossendale District Local Plan.

11 Details of the proposals for the storage of 'wheelie' bins shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved storage measures shall be implemented in full before the approved dwellings are first occupied and shall thereafter be retained at all times.

Reason: :- In the interests of safeguarding the setting of the buildings and the appearance of the street scene, in accordance with policies DC.1, DC.4 and HP.4 of the Rossendale District Local Plan.

12 Construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction works shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: To safeguard the amenities of nearby residential properties in accordance with policy DC.1 of the Rossendale District Local Plan.

Local Plan Policies

DS.1
DC.1
DC.4
HP.4
T.4

Structure Plan Policies

Policies 1, 5 and 12