

Application No: 2007/202	Application Type: Reserved Matters
Proposal: Erection of 3 no. bungalows (Reserved Matters for Outline Permission 2005/275)	Location: Land to rear and garden area of 27 Helmshore Road, Haslingden
Report of: Head of Planning, Legal and Democratic Services	Status: For Publication
Report to: Development Control Committee	Date: 24 July 2007
Applicant: Two Brooks Valley Ltd, 8 East Beach, Lytham	Determination Expiry Date: 21 May 2007

REASON FOR REPORTING Tick Box

Outside Officer Scheme of Delegation

Member Call-In

Name of Member:
Reason for Call-In:

3 or more objections received X

Other (please state)

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. THE PROPOSAL AND THE SITE

1.1 The application site forms part of the rear garden of the detached residential property No. 27 Helmshore Road, located on the westerly side of Helmshore Road, Haslingden. The site is rectangular in shape and abuts the boundary with a large detached dwelling known as Hurst Bank to the north, residential dwellings, No. 29 Helmshore Road to the south and 25 Rawsthorne Avenue to the west. The site forms a gentle slope from east to west and is located at a

higher level compared with the neighbouring property to the south. Currently, the site is bounded by a high hedge along its boundary with properties to the north and south.

- 1.2 The application is a reserved matters application and seeks approval of the siting, design, means of access, external appearance and landscaping for the construction of 3 no. detached bungalows. The bungalows would be single storey and laid out in a row within the central part of the site. Each bungalow would provide a two bedroom accommodation over a single storey on the ground floor and have a garage and open amenity space. The bungalows would be built in slate tiled hipped roof with external walls in coursed natural stone. In terms of their design, the proposed bungalows are essentially the same.
- 1.3 It is proposed that the access to the site will be gained from Rawsthorne Avenue via an access road (4.5m wide) running along the northerly boundary of the site. A turning area is proposed between the central and eastern plot, approximately 18m from the eastern boundary of the site.

2. RELEVANT PLANNING HISTORY

- 2.1 2005/134: Outline application for the erection of three dwellings - Refused on the grounds that the development is not required to meet an identified local housing need.
- 2.2 2005/275: Outline application for the erection of three dwellings – Recommended for refusal, overturned at committee. Approved.
- 2.3 2006/427: Full application for the erection of three dwellings with garages and widening of existing access – Refused on the grounds of housing over supply, detrimental effect on the amenities of the adjacent residents, detrimental effect upon highway safety.
- 2.4 2006/677: Full application for the erection of three detached dwellings with garages and widening of existing access from Helmshore Road – Refused on the grounds of housing over supply, detrimental impact on the character of the area and detrimental effect on the amenities of the adjacent residents. The Applicant lodged an Appeal against this decision. By way of a letter dated 10 July 2007 the Planning Inspectorate has dismissed the Appeal.
- 2.5 2007/230: Full application for the erection of two dormer bungalows and one house with access from Helmshore Road – Withdrawn.
- 2.6 2007/356: Full application for the erection of two detached dwelling houses - Refused
- 2.7 2007/357: Full application for the erection of two detached bungalows - Refused.
- 2.8 2007/357: Full application for the erection of one detached house and one detached bungalow - Refused.

- 2.9 Tree Preservation Order : On 1 June 2007 a TPO was made in respect of an Ash and a Sycamore located within the application site considered to contribute positively to the character and appearance of the area.

3. POLICY CONTEXT

Rossendale District Local Plan

Policy DS.1 (Urban Boundary)

Policy DC.1 (Development Criteria)

Policy DC.4 (Materials)

Policy DC.7 (Development in Large Gardens)

Joint Lancashire Structure Plan

Policy 1 (General Policy)

Policy 12 (Housing Provision)

Other Material Planning Considerations

PPS 1 – General principles

PPG 3 - Housing

PPG 13 - Transport

LCC Parking Standards

RBC Revised Interim Housing Policy Position Statement

4. CONSULTATIONS

4.1 LCC (Highways)

No objection subject to access from Rawsthorne Avenue.

4.2 Rossendale Environmental Health

No objection subject to conditions requiring site investigations to assess any possible risks associated with the production of landfill gas and restricted working hours for carrying out the construction works.

5. REPRESENTATIONS

- 5.1 Site notices were posted and the relevant residents notified by way of an individual letter. 25 letters (4 letters from same resident) raising objection to the proposal have been received. The following issues were raised:

- Too close and would cause an invasion to privacy, disturbance and noise.
- The site is too small to accommodate the development.
- Would result in the felling several mature trees.
- The noise likely to be caused by vehicles using the new access road would be a constant source of disturbance to the residents of No. 25 Helmshore Road.
- The development would be contrary to the Council's Housing Policy.
- Rawsthorne Avenue is unsuitable to carry heavy plant, tipper wagons and material wagons.

- Rawsthorne Avenue is too narrow to deal with the increase in traffic. It is already congested with parked vehicles.
- Any increase in traffic on Rawsthorne would endanger the safety of children.
- The development would be detrimental to the amenities of the residents.
- The siting, layout, extent of the proposed access way and orientation of the turning area would result in a significant detrimental impact on the privacy and amenity within the rear gardens of Hurst Bank and No. 29 Helmshore Road.
- Noise nuisance resulting from vehicles, closing doors and general noise associated with vehicle usage would have a detrimental impact on the residents' privacy and amenity.
- The use of the turning area, due to its orientation and relationship, would have a detrimental effect on the amenities of the residents of Hurst Bank.

6. **ASSESSMENT**

- 6.1 Members will recall that at the May meeting of Committee a decision was taken to defer determination of the application pending clarification of a reference to an Ombudsman decision which the Council had not seen and also to await the outcome of the Appeal in respect of Application 2006/677.
- 6.2 The appeal decision in respect of Application 2006/677 has been received from the Planning Inspectorate; a copy of the Inspectorate's letter is appended.
- 6.3 Planning permission was refused by officers on the following three grounds :
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 adopted Joint Lancashire Structure Plan 2001-2016 and the Councils Housing Position Statement.
 2. The proposed development would, by reason of its size, position and design, be a prominent and intrusive feature in the area and which would adversely affect the visual character of the area , contrary to Policy DC 7 of the Rossendale District Local Plan .
 3. The proposed development would, by reason of its size , position and design, have a significant over looking and over bearing impact on the amenities of nearby residents contrary to the development criteria of Policy Dc1 of the Rossendale District Local Plan.
- 6.4 The Inspector has dismissed the Appeal solely on the basis of the impact the proposed houses would have on the amenities of neighbours, concluding on each of the Council's grounds for refusal as follows :
- (1) The Appeal proposal would not exacerbate housing over supply as outline permission for the erection of 3 dwellings on the site already exists.

- (2) Policy DC7 of the Rossendale District Local Plan, which seeks to protect the character of extensive grounds of existing dwellings, pre-dates the Government guidance of PPS3. PPS3 seeks to make efficient use of land and warns that the “*density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form*”..... The garden to No 27 is roughly rectangular in shape and, as a result, any proposal for 3 detached dwellings is likely to have a similar layout to that proposed.....Given the variety in the form and siting of buildings in the vicinity , I do not consider that the proposed dwellings would look out of place.....Subsequent to the submission of the Appeal the Council issued a Tree Preservation Order with respect to two trees on the site. However, I agree with the Appellant that these trees have a limited impact on the public realm and, provided they were replaced, I do not consider their loss would have an adverse impact on the character and appearance of the area.
- (3) The proposed house would sit in a line behind No 27 with their front and rear windows facing the rear gardens of the properties on either side. On the north side, the party-boundary with Hurst Bank is formed in part by a leylandii hedge of around 4m in height and a hedge of about 2.5m. This, and the distance between the proposed houses and Hurst Bank would prevent any undue loss of privacy for occupiers of this existing property from the proposed properties and vice-versa.....To the south side, there is a hedge of about 1.5m on the party-boundary with No 29. However, this would not prevent the occupiers of the new houses looking, at close quarters, into the back garden of No 29. The house proposed on Plot 3 would also overlook the large garden of the house at the end of Rawsthorne Avenue.

6.5 Having regard to this Appeal decision, the main issues to be considered in the determination of Application 2006/677 remain as follows:

1. Principle of the development
2. Visual amenity
3. Neighbour amenity
4. Highway issues

6.6 Principle

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 application seeks approval of the Reserved Matters consequential to the previous Outline Permission 2005/275, granted on 4th July 2005. The issue of Housing oversupply is not for consideration as the principle of 3 dwellings on this site area was established at outline stage.

6.7 Visual amenity

The application site forming part of the rear garden at 27 Helmshore Road, is located within an area characterised largely by low density development comprising large detached dwellings within quite extensive grounds. The proposed bungalows would be located approximately 7 to 8m away from the northern boundary, 6 to 12m from the southern boundary, and 7 to 8m from the

western boundary. The dwellings would be single-storey with a ridge height of approximately 6m. Due to their location, restricted scale/size and relationship with the surrounding properties, it is considered that the proposed development would not cause significant harm to the character and appearance of the area. It should also be noted that the submitted scheme proposes the retention of the two trees the subject of the Tree Preservation Order.

6.8 Residential amenity

The proposed bungalows with associated garages and parking area would be located within the rear garden to the west of no. 27 Helmshore Road. The bungalows would be orientated in a north-south direction with main frontage facing North and the rear elevation facing South. As such, the proposed bungalow on the eastern part of the site would be located directly opposite facing the southerly gable of the single storey extension at Hurst Bank. The remaining two bungalows would be located further away from any of the adjacent dwellings.

6.9 The bungalow proposed on the eastern part of the site would be located approximately 23m to the rear of no. 27 Helmshore Road and approximately 23m from the front elevation of Hurst Bank and 9.5m from the gable wall of the single extension in front. Since there is no habitable room window displayed on the gable of the extension facing the proposed bungalow and in view of the separation distance between the frontage of Hurst Bank and the proposed bungalow (23m), it is considered that the proposed development would have little impact on the amenities of the residents of Hurst Bank. Although, the proposed bungalows would be located approximately 4.5m from the boundary with Hurst Bank, in view of the fact that there is a thick high hedge located at the boundary, it is considered that the privacy of the garden at Hurst Bank would not be unduly compromised to the detriment of the residents' amenities. Similarly, due to the distance between the gable wall of the bungalow proposed on the easterly part of the site and the rear elevation of 27 Helmshore Road (approximately 23m), it is not considered that the proposed development would have an unduly detrimental impact on the amenities of the residents of no. 27 Helmshore Road.

6.10 With regard to the issues raised by the residents concerning noise/disturbance likely to be caused by the use of the proposed road or turning areas, it should be pointed out the access road would be located along the boundary with Hurst Bank which is bounded by a thick hedge. In view of the thick hedge along the boundary, the separation distance with the adjacent properties and limited use of the access road/turning areas, it is unlikely that the noise/disturbance generated by the access road/turning areas would be to the serious detriment of the residential amenities in the area. In view of these considerations, it is considered that the comments made by the residents in respect of the loss of amenity, overlooking, noise and disturbance, are insufficient to justify a recommendation for refusal.

6.11 Design/appearance

The proposed bungalows would have slated pitched-roofs and external walls built in coursed natural stone. It is considered that the proposed development,

in terms of its design and appearance, is compatible with the character of the adjacent buildings and the area. Due to the location of the proposed bungalows, it is unlikely that the proposed development would appear unduly prominent or intrusive in the street scene along Rawsthorne Avenue.

6.12 Landscape

The proposed layout for the bungalows is influenced to a large degree by the shape of the site and the position of the trees and other planting on the site. According to the applicant, all the significant vegetation (including two trees protected by the TPO) would be retained. Although, no landscape treatment has been proposed as part of the submitted scheme, the applicant has made it clear in the application that any tree removed as a consequence of the proposed development, would be replaced. A condition is recommended to ensure trees to be retained are suitably safeguarded during construction.

6.13 Highway Issues

The LCC (Highways) are satisfied with the proposed access from Rawsthorne Avenue and details of the access road to serve the development. The Highway Authority therefore raises no objection to the proposal.

7. CONCLUSION

- 7.1 The principle of the proposed development, due to the previous outline consent ref. 2005/275, has already been accepted. It is considered that the proposed development would neither have an unduly detrimental impact on the amenity of the adjacent residents nor on the character of the area. The proposed development would be in keeping with the character of the surrounding dwellings. It is considered that the proposed access and internal road layout is satisfactory and would not be detrimental to road safety. It is therefore considered that the proposed development is in accordance with policies DS1, DC4, DC7 and development criteria of policy DC1 of the Rossendale District Local Plan.

8. RECOMMENDATION

That the application be approved subject to conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.
2. The development shall be carried out in accordance with drawings numbered PL01, PL02, PL03 and PL04 received on 26 March 2007 and PL05 (Revised A) received on 24 April 2007.
Reason: To ensure the development complies with the approved plans and for the avoidance of doubt.
3. The development shall not be commenced until full details, including representative samples, of the external materials of construction to be used on the roof and walls of the development have been submitted to

and first approved in writing by the Local Planning Authority and shall thereafter be carried out in accordance with details approved and maintained in perpetuity.

Reason: To ensure a satisfactory appearance to the development and to accord with Policy DC4 of the Rossendale District Local Plan

4. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that Order) no development shall be carried out on the site within the terms of Classes A, B, C, D, E and G, of part 1 of Schedule 2 of the Order, without the prior consent of the Local Planning Authority.
Reason: To enable the Local Planning Authority to control any future development, having regard to local and neighbouring amenities and Policy DC1 of the Rossendale District Local Plan.
5. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 (or any order revoking and re-enacting that Order) the garage shall be used for no other purpose than for the parking of cars.
Reason: In the interests of residential amenity.
6. Any 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 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.
7. The proposed access, driveways and turning areas shall be constructed in accordance with the approved plan and be available for use before the dwellings are first occupied. The parking and turning area shall be retained in perpetuity for the purpose of parking and turning.
Reason: To ensure adequate off-street parking and turning to permit vehicles to leave the site in forward gear, in the interests of highway safety.
8. No trees, unless indicated otherwise on the approved plans, shall be felled, lopped or topped before or during the construction period without the previous written consent of the Local Planning Authority.
Reason: To avoid the loss of trees which are of amenity value to the area.
9. The development hereby approved shall not commence unless and until a scheme of protection for all trees to be retained on the site in accordance with BS 5837:1991 “ Trees in Relation to Construction “ has been submitted by the applicant to and agreed in writing by the Local Planning Authority. The development shall not commence unless and until the measures required by that scheme have been implemented, to the written satisfaction of the Local Planning Authority and all measures

required by the scheme shall continue until the development has been completed.

Reason: To avoid the loss of trees which are of amenity value to the area.

10. Prior to the commencement of the development, site investigations must be carried out to assess any possible risks associated with the production of landfill gas. Detailed design features shall be incorporated into the proposed buildings required by the site investigation to alleviate risks, shall be submitted to and to the written satisfaction of the Local Planning Authority. A comprehensive construction design shall be incorporated to prevent the ingress of landfill gas, to be agreed in writing with the Local Planning Authority before work commences. The development shall be constructed in accordance with the approved detailed design features and comprehensive construction design and any measures included shall be maintained in perpetuity.

Reason: To alleviate any possible risk associated with the production of landfill gas.

11. Full details of all the fencing, screen walls or any means of enclosure to be erected or planted on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the erection or planting thereof and this condition shall apply notwithstanding any indications as to these matters given in the application. The development shall be carried out in accordance with the approved scheme and thereafter maintained in perpetuity.

Reason: In the interests of visual amenity.

Contact Officer	
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Appeal Decision

Site visit made on 20 June 2007

by **Anthony Thickett** BA(Hons) BTP
MRTPI Dip RSA

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Date: 10 July 2007

Appeal Ref: APP/B2355/A/07/2038392

Land at 27 Helmshore Road, Haslingden, Lancashire, BB4 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Two Brooks Valley Ltd against the decision of Rossendale Borough Council.
- The application Ref 2006/677, dated 7 December 2006, was refused by notice dated 6 February 2007.
- The development proposed is the erection of 3 detached dwellings.

Summary of Decision: The appeal is dismissed.

Main Issues

1. The main issues are:
 - the impact of the proposal on housing supply in the Borough
 - the impact of the proposal on the character and appearance of the area
 - the effect of the proposal on the privacy of nearby residents

Planning Policy

2. The development plan for the area includes the Rossendale District Local Plan 1995. Policy DC.1 requires regard to be had to the impact of development on, amongst other things, the privacy enjoyed by existing residents. Policy DC.7 relates specifically to the development of large gardens. The policy states that, in areas of low density and where large gardens make a significant contribution to the character and appearance of an area, planning permission for additional dwellings will not normally be granted.
 3. The Council issued an Interim Housing Position Statement in August 2005 and a revised statement in January 2007. In summary, there an oversupply of housing in the Borough and, with some limited exceptions, the Position Statements seek to prevent development which would result in a net increase of housing. The first position statement was approved by the Council following public consultation and I afford it significant weight. Nothing is submitted regarding the process leading to the approval of the revised statement but the Council concede that it should be afforded only limited weight.
-

Reasons

Housing supply

4. Outline planning permission was granted for three dwellings in the rear garden of No.27 Helmshore Road in July 2005 and it matters not that this was against the recommendation of officers. Access was permitted from Rawsthorne Avenue and the application site was slightly different but the principle of the provision of 3 dwellings in the rear garden of No. 27 Helmshore Road has been accepted by the Council.
5. The Council argue that the three dwellings permitted under the outline planning permission are not accounted for in the Interim Housing Position Statement. A reserved matters application for 3 bungalows was recently recommended for approval by officers but is now the subject of an appeal against non determination. Whatever my decision in this case, nothing is submitted to show that the outline permission would not be implemented. If I were to allow the appeal, only one permission could be implemented and, therefore, this proposal would not lead to a net increase in the number of dwellings already committed. I conclude, therefore, that the proposal would not exacerbate any oversupply of housing in the Borough.

Character and appearance

6. There have been significant changes in planning policy in the 12 years since Policy DC.7 was adopted. Planning Policy Statement 3, Housing (PPS3) seeks to make efficient use of land and warns that the '*density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form*'. There are a number of substantial houses with large gardens in this part of Helmshore Road. However, the character and appearance of the area is also influenced by semi-detached and terraced houses built at a higher density. There are also examples of development in depth at The Old Stables and Heathfield and the substantial bungalow at Hurst Bank is set well back from the road.
7. The garden to No. 27 is roughly rectangular in shape and, as a result, any proposal for 3 detached dwellings is likely to have a similar layout to that proposed. The Council must have been aware of this when granting outline planning permission and officers have recommended the approval of a layout similar to that proposed under this appeal.
8. The Council criticise the size of the buildings but there is nothing in the outline planning permission to indicate that two storey dwellings would not be acceptable. Circular 11/95 advises that, where certain aspects of a development are crucial to a decision, local planning authorities may impose conditions specifying such aspects at outline stage. There are no such conditions on the outline planning permission. Given the variety in the form and siting of buildings in the vicinity, I do not consider that the proposed dwellings would look out of place.
9. Subsequent to the submission of the appeal, the Council issued a tree preservation order with respect to two trees on the site. The appellant has objected to the order and submits a report which indicates that the ash tree is in a poor condition and has a limited life. These trees are shown to be

retained. Their relationship with houses 2 and 3 would be similar to the bungalows proposed under the reserved matters application and the Council does not allege that they would be lost as a result of the appeal proposal. I am concerned that the distance between the proposed houses and the trees would not satisfy BS5837:2005, Trees in relation to construction-Recommendations. However, I agree with the appellant that these trees have a limited impact on the public realm and, provided they were replaced, I do not consider their loss would have an adverse impact on the character and appearance of the area. I conclude, therefore, that the proposal does not conflict with Policy DC.7.

Living conditions

10. The proposed houses would sit in a line behind No. 27 with their front and rear windows facing the rear gardens of the properties on either side. Hurst Bank has ground and first floor windows facing the shared boundary. This boundary is formed in part by a leylandii hedge which is around 4m high and a hedge of about 2.5m. The distance between the proposed houses and the rear garden of Hurst Bank would be such that I do not consider there would be an unacceptable degree of overlooking. The large picture window to the first floor of Hurst Bank would face the proposed dwellings but the distance between them would be sufficient to prevent any undue loss of privacy.
11. Plot 3 would be 6m from the its rear boundary and Plots 1 and 2 would be no more than a couple of metres away from the boundary with No. 29. There is a hedge of about 1.5m high on the shared boundary. However, this would not prevent the occupiers of the new houses looking, at close quarters, into the back garden of No. 29. Plot 3 would also overlook the large garden of the house at the end of Rawsthorne Avenue.
12. Plots 1 and 2 would have a bedroom in the roofspace lit by rooflights in the rear facing roofslope. It is likely, given the floor levels shown, that the rooflights would be at eye level adding to the overlooking of the adjoining garden. I conclude, therefore, that the proposal would have an adverse impact on the privacy enjoyed by the occupiers of No. 29 Helmshore Road and that it conflicts with Policy D1.1 of the UDP.

Conclusions

13. Notwithstanding my findings with regard to housing supply and character and appearance, the adverse consequences of the proposal described above provide compelling grounds to dismiss this appeal. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

14. I dismiss the appeal.

Anthony Thickett

Inspector



TITLE NUMBER
LAN24223



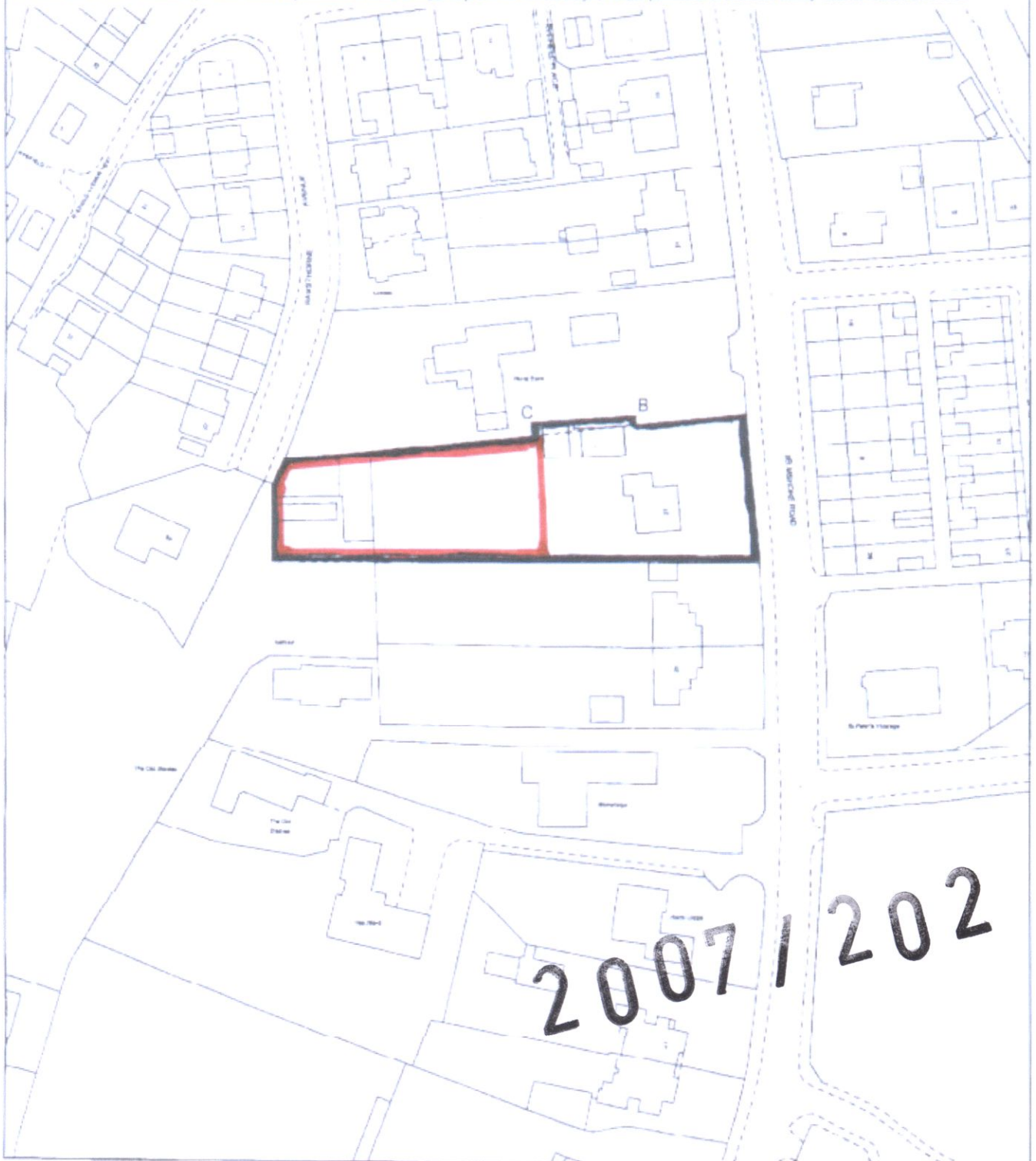
LANCASHIRE : ROSSENDALE

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Issued on 30 January 2006.

This title is dealt with by the District Land Registrar for Lancashire.

