
Proposal: APPEALS UPDATE REPORT

Report of: Head of Planning Legal and Democratic Services **Status:** For Publication

Report to: Development Control Committee **Date:** 21 August 2007

1. PURPOSE OF THE REPORT

- 1.1. To inform Committee members of the recent appeal decisions/activity in relating to applications since the report to Committee in March 2007.
- 1.2. The Head of Planning, Legal and Democratic Services and the Portfolio Holder for Regenerating and Promoting Rossendale felt it appropriate as part of the improvements to the Development Control Service to update members of the Committee on a regular basis about appeals against the Councils decisions.
- 1.3. The report below relates to appeals pursuant to applications which have been submitted to the Council; a report will be presented to the next meeting of Committee about Enforcement activity and appeals pursuant to notices which have been served by the Council.

2. RECOMMENDATIONS

- 2.1. That the report be noted.

3. Appeal Activity

- 3.1 Since the meeting of the Development Control Committee held on 6 March 2007 decisions have been received from the Planning Inspectorate in respect of 9 appeals.

2006/355: Scar End Farm, Weir, Bacup
(Outline) - Proposed Holiday Park, comprising 20 no. tourist lodges.
Refused by Committee - 30/11/06
Appeal considered by Written Representations
Appeal dismissed on 14/06/2007.

2006/677: Land at 27 Helmshore Road, Haslingden
Erection of 3 no. detached dwellings
Refused by Officers - 06/02/07
Appeal considered by Written Representations
Appeal dismissed on 10/07/2007

2006/125: 739 Burnley Road, Crawshawbooth
Rear extension and loft conversion
Refused by Officer - 24/07/06
Appeal considered by Written Representations
Appeal allowed in part and refused in part

2006/464: Mill End Mill, Burnley Road East, Rossendale
Erection of a 3 storey block of 18 no. apartments, 3 no. 3-storey houses & 7
no. 2-storey, formation of access to Booth Road and closure of Burnley Road
East access to vehicles
Refused by Committee - 13/11/06
Appeal considered by way of Hearing
Appeal dismissed on 10/07/2007

2006/585: Springfield House, Newchurch Road, Rawtenstall
Conversion of Coach House to single dwelling
Refused by Officers - 18/12/06
Appeal considered by Written Representations
Appeal dismissed on 02/08/2007.

2006/642: Britannia Mill, Mill Street, Haslingden
Variation of condition 8 of planning permission 2002/348
Refused by Officers - 09/01/07
Appeal considered by Written Representations
Appeal allowed on 25/07/2007.

2007/004: 69 Holland Avenue, Rawtenstall
Two storey rear extension
Refused by Officers - 02/03/07
Appeal considered by Written Representations
Appeal allowed 18/07/2007

2006/443: 454 Rochdale Road, Bacup
Erection of two storey extension to rear
Refused by committee 26/09/2006.
Appeal considered by Written Representations
Allowed on Appeal 29/03/2007

2006/462: 2 Hapton Way, Loveclough
Levelling of side garden and perimeter fence
Refused by Officers - 3/10/06
Appeal considered by Written Representations
Dismissed on Appeal on 18/04/2007

Copies of the Planning Inspectorate's decision letters are appended.

3.2 Decisions from the Planning Inspectorate are awaited on 17 appeals, of which only the first was reported to the meeting of the Development Control Committee held on 6 March 2007:

2005/535: Anvil Street, Stacksteads, Bacup

Erection of 11 houses

Refused by Committee - 6/12/05

To be dealt with by Public Inquiry - date undecided.

2006/222: Land off Rochdale Road, Bacup

Erection of 3 no. additional dwellings

Refused by Officer – 17/10/2006

To be dealt with by Hearing - date undecided.

2006/223: Land off Rochdale Road, Bacup

Erection of 2 no. additional dwellings

Refused by Officer – 17/10/2007

To be dealt with by Hearing - date undecided

2006/572A: LCC Library, Haslingden Road, Rawtenstall

Erection of 3 no. projecting signs

Refused by Officer – 11/12/2006.

To be dealt with by Written Representations.

2006/573LB: LCC Library, Haslingden Road, Rawtenstall

Erection of 3 no. projecting signs

Refused by Officer – 11/12/2006.

To be dealt with by Written Representations.

2006/587: Site at Stack Lane, Bacup

Failure to discharge Highway Condition on Planning Permission 2007/587

Permitted by Committee – 05/12/2006.

To be dealt with by Hearing - date undecided

2006/609: Land adj 368 Rochdale Road, Britannia, Bacup

Erection of 13 Town Houses

Refused by Committee – 10/01/2007.

To be dealt with by Hearing - 25/9/07

2006/688: Land to rear of 171 Burnley Road East, Rossendale

Change of use from vacant land to garden

Refused by Officers – 24/01/2007.

To be dealt with by Public Inquiry - date undecided.

2006/703: Site of Former Amtrack Building, St Mary's Way, Rawtenstall

Inclusion of lift within apartment blocks/ roof alteration

Refused by Officers on 20/04/2007.

To be dealt with by Written Representations.

2007/14: Clough End Works, Clough End Road, Haslingden
Re-development of site with block of 7 apartments (Outline)
Refused by Committee – 09/03/2007.

To be dealt with by Written Representations.

2007/43: Hargreaves Fold Farm North, Hargreaves Fold Lane, Lumb
Conversion of redundant barn to dwelling
Refused by Committee – 09/03/2007.

To be dealt with by Hearing - date undecided.

2007/47: Waingate Road, Rawtenstall
One detached house

Refused by Committee – 09/03/07

To be dealt with by Written Representations.

2007/49: Land at Millfold Whitworth
Construction of two dwellings

Refused by Officers – 14/04/2007

To be dealt with by Written Representations.

2007/104: Former Ta Top Farm, Goodshaw Lane, Rossendale
Conversion and extension to two dwellings and barn to create one dwelling

Refused by Officer – 16/04/2007.

To be dealt with by Written Representations.

2007/197: Unit 1, Former Snowking Factory, Grane Road, Haslingden
Removal/variation of condition on Planning Permission 2007/197

Imposed by Committee – 22/05/2007.

To be dealt with by Written Representations.

2007/198 : Former Snowking Factory, Grane Road, Haslingden
Variation of construction hours condition on Planning Permission 2006/301

Refused by Officer – 25/04/2007

To be dealt with by Written Representations.

2007/237 : Land off Oaklands Drive & Lower Cribden Avenue, Rawtenstall
Variation of condition on planning permissions 2007/016

Refused by Officer – 22/06/2007

To be dealt with by Hearing - date undecided.

4. HUMAN RESOURCES

- 4.1 **Human Rights Act 1998** implications are considered to be Article 8 which relate to the right to respect for private and family life, home and correspondence. Additionally, Article 1 of Protocol 1 relates to the right of peaceful enjoyment of possessions and protection of property.

5. BACKGROUND DOCUMENTS

- 5.1. The appeal decision letters on the relevant Planning Application files.

Contact Officer	
Name	Neil Birtles
Position	Senior Planning Officer
Service / Team	Development Control
Telephone	(01706) 238642
Email address	planning@rossendalebc.gov.uk



Appeal Decision

Site visit made on 8 June 2007

by **Ruth V MacKenzie BA(Hons) MRTPI**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
✉ email: enquiries@pins.gsi.gov.uk

Date: 14 June 2007

Appeal Ref: APP/B2355/A/07/2036108 Scar End Farm, Weir Lane, Weir, Lancashire OL13 8QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Gary Davis against the decision of Rossendale Borough Council.
- The application (Ref No 2006/355, dated 16 June 2006) was refused by notice dated 30 November 2006.
- The development proposed is a holiday park comprising 20 No tourist lodges.

Decision

1. I dismiss the appeal.

Inspector's Reasons

2. In 2005, the appellant made an unsuccessful planning application for a similar development elsewhere on his land. This earlier refusal has not influenced my decision; I have looked at the proposal afresh.
3. The current application was submitted in outline, with all matters of detail, except the means of access, reserved for later determination. The application makes it clear that there would be 20 tourist lodges and 20 parking spaces on this 0.78ha site. The lodges would be sited 15m-20m away from the adjoining plantation, in order to protect a nearby badgers' sett. The second half of the 800m track to the site would be improved beyond Scar End Farm. At present, it is steep and muddy, and unsuitable for most vehicles.
4. The site lies in an open rural area, within a "Moorland Fringe" landscape, as defined in the adopted Joint Lancashire Structure Plan. The 20 tourist lodges would be built on a rectangular area of pasture that lies between the plantation to the north west and higher moorland hills to the south and east.
5. The lodges would not be silhouetted against the horizon, but they would nevertheless be clearly visible from most parts of Weir, the nearest settlement about 1km away, beside the A671. Footpaths, including the Irwell Valley Way, criss-cross this rural area and come within about 100m of the site. To my mind, users of these routes would find the proposed holiday park an unexpected intrusion in the undeveloped moorland fringe landscape through which they were walking.

6. The nearest buildings are those at Scar End Farm, the appellant's home, halfway up the track. Other sporadic barns and farmsteads are visible in the surrounding moorland, but I saw no developments of the density and extent that the appellant is currently proposing. Indeed, because of the need to keep away from the badgers' sett, the 20 lodges would have to be closely grouped on the south east side of the site, thereby increasing their density and visual impact. Policy 20 of the Joint Lancashire Structure Plan requires that development should be appropriate to the landscape's character. In my view, the cumulative impact of the 20 lodges, the long track, the parked cars and all the associated activities, would fail to do this.
7. Paragraph 39 of *Planning Policy Statement 7: Sustainable Development in Rural Areas* (PPS7) establishes that new sites for tourist accommodation should not be prominent in the landscape, and that any visual intrusion is minimised by effective high-quality screening. Landscaping is a reserved matter but, in my view, any amount of landscaping could not disguise the presence of the proposed holiday park. Indeed, there is a risk that the landscaping itself would be as incongruous as the development that it was meant to screen.
8. SP policy 19 accepts that some tourist developments have to be in rural areas. But where this is the case they should, amongst other things, assist in rural regeneration. However, I am unaware of an overriding need for rural regeneration in this part of Rossendale.
9. Policy C.5 of the Local Plan gives some encouragement to farm diversification; but, so far as I am aware, the appellant's land is not being used by him as a working farm. Indeed, he argues that the proposed holiday park would help to finance the farm's regeneration. However, there is no evidence to support this claim, and I give it limited weight. I therefore remain unconvinced that the proposed holiday park is needed for the purposes of agriculture, one of the exceptions to the presumption against development in rural areas specified in Local Plan policy DS.5.
10. PPS7 acknowledges that tourism can sustain rural businesses, and I accept that the proposed holiday park would bring tourists into the area, and this could boost local businesses. However, the site's isolated location is contrary to the widely-held principles of sustainable development. To my mind, the steep 800m access track would deter most occupants of the lodges from using anything other than a car to get to shops, services and places of interest. And, so far as I am aware, there are no tourist attractions in Weir, the nearest settlement.
11. For the reasons given above, and in the light of all other matters raised, I have decided that the proposed holiday park is unacceptable, and that the appeal should be dismissed.

Ruth V MacKenzie

INSPECTOR



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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@plns.gst.gov.uk

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 is 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.
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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



Appeal Decision

Site visit made on 19 June 2007

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

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Date: 10 July 2007

Appeal Ref: APP/B2355/A/07/2034835

739 Burnley Road, Crawshawbooth, Lancashire, BB4 8BW

- 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 Maria Blair against the decision of Rossendale Borough Council.
- The application Ref 2006/125, dated 3 March 2006, was refused by notice dated 24 July 2006.
- The development proposed is a rear extension and loft conversion.

Summary of Decision: The appeal is allowed in part and is dismissed in part, as set out below in the Formal Decision.

Procedural Matters

1. The occupier of No. 741 Burnley Road requested that I view the appeal site from her property. However, as she would not allow the appellant's representative to accompany me, I did not do so.

Main Issue

2. The main issue is the impact of the proposal on the living conditions of the occupiers of neighbouring dwellings with regard to light and visual impact.

Reasons

3. Walking out of the appellant's kitchen one steps out onto a raised walkway leading to steps down to the backyard. The appellant proposes to extend the kitchen to the rear boundary beneath which would be a store. The closest window to No. 737 Burnley Road would be around 3m to the south of the proposed extension. Given the distance and relationship between the proposed extension and this window, I do not consider that the proposal would result in an unacceptable loss of light to this property. I saw the extension to No. 735 and I note that the occupier of No. 737 is concerned that she would feel 'blocked in'. However, again, due to the distance between the proposed extension and the windows to No. 737, I do not consider that its visual impact would be sufficient to warrant the withholding of planning permission.
4. No. 741 has a two storey rear extension with a large window facing the shared boundary and which would be about 2m from the side wall of the proposed extension. The proposed extension would be to the south of the window and, due to its size and proximity, would inevitably lead to a loss of light to this room. In addition, it would have an unacceptable visual impact on the living conditions of the occupiers of No. 741. I saw similar extensions to the rear of this row of terraced houses but none with the same relationship with another rear extension.

5. I agree with the appellant that, in terms of its design, the proposed extension would not look out of place. However, neither this nor my findings regarding the impact of the proposal on the occupiers of No. 737 is sufficient to outweigh the harm identified above. I conclude, therefore, that the proposed rear extension would have an adverse impact on the living conditions of neighbouring residents and that it conflicts with Policy DC.1(j) of the Rossendale District Local Plan.
6. There are no objections to the proposed loft conversion. The proposed rooflights would not have an adverse impact on either the form of the roof or the building. It is unlikely that, given their position in the roof, anyone standing in the bedrooms would be able to look out of the rooflights into neighbouring gardens. I consider that this part of the proposal complies with Policy 1 of the Joint Lancashire Structure Plan 2005 and I shall allow the appeal insofar as it relates to the loft conversion.

Conditions

7. I have considered the Council's suggested conditions in light of the advice in Circular 11/95. It is necessary, in the interests of the visual amenities of the area to require the use of matching materials. Given that most work will be internal, I do not consider it necessary to limit hours of construction.

Conclusions

8. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed in part and dismissed in part.

Formal Decision

9. I dismiss the appeal insofar as it relates to the rear extension. I allow the appeal insofar as it relates to the loft conversion and I grant planning permission for a loft conversion at 739 Burnley Road, Crawshawbooth, Lancashire, BB4 8BW in accordance with the terms of the application, Ref 2006/125, dated 3 March 2006 and the plans submitted with it so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the loft conversion hereby permitted shall match those used in the existing building.

Anthony Thickett

Inspector



Appeal Decision

Hearing held on 17 July 2007

Site visit made on 17 July 2007

by **Keith P Durrant MA BArch(Hons) RIBA
ARIAS MRTPI FRSA**

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquires@pins.gsi.gov.uk

Date: 30 July 2007

Appeal Ref: APP/B2355/A/07/2040728

Mill End Mill, Burnley Road East, Waterfoot, Rossendale BB4 9DF

- 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 Seddon Homes Ltd against the decision of Rossendale Borough Council.
- The application Ref 2006/464, dated 9 August 2006, was refused by notice dated 13 November 2006.
- The development proposed is a 3 storey block of 18 residential apartments with car parking, 8no. 2 storey town houses and 3no. 3 storey town houses with associated car parking.

Decision

1. **The appeal is dismissed.**

Main issues

2. My decision has turned on (a) whether release of this land now for housing is justified, given the land supply position in Rossendale and the local benefits of utilising this disused mill site; and (b) whether the proposed access would give rise to problems of highway safety. The Council is no longer suggesting that the scheme would be an over development of the site and, subject to appropriate planning conditions, I concur with that view.

Reasons

3. On my first issue, the Council is applying the national policy on planning, monitoring and managing the release of land in Planning Policy Statement 3 - Housing (PPS3). At present, the most relevant starting point is the allocations arising from Policy 12 of the Joint Lancashire Structure Plan 2005. Regular district wide reviews of the deliverability of those allocations have taken place in Housing Position Statements, in August 2005 and in January 2007. The most recent monitoring of housing supply, in July this year that included discussions with developers, confirms the continuing relatively large net oversupply of housing land with permission set against the Structure Plan figures.
4. Although the appellant suggested that some caution is needed in interpreting the calculations behind the figures and in looking at the reasons why completions are falling behind permissions, I have no substantive evidence to suggest other than there is an oversupply. The Borough is well endowed with housing land beyond five years. The emerging replacement Regional Spatial

Strategy for the North West may suggest an increase in allocations for Rossendale, such that less constraint may become desirable. However, this is at an early stage of resolution and as such I can give it little weight.

5. I have looked at the benefits of releasing the appeal site to offset the clear conflict with housing supply policies. The Council, in its January 2007 policy statement adopted for development control purposes (and, as a response to PPS3, of significant weight in the management of land) has sought to temper overall constraint with achieving regeneration on previously developed land. Residential development may thus be acceptable in two priority areas, including a Pathfinder area. The appeal site is in neither; and although the two areas have yet to be adopted in Action Area Plans, the thrust of the Council's policy direction is backed up by funding. It is thus a powerful steer to the balancing of my decision making. It echoes that in paragraph 69 of PPS3.
6. The Council is also seeking to link land release to the provision of affordable housing; but none is proposed in this application. The local policy stance is evolving; but having regard to the objectives in PPS3 and the Structure Plan on that topic, provision of an element of such housing may have been a benefit if need had been established. However in the absence of clear criteria from the Council, it is not a determining issue in this appeal.
7. I conclude therefore that releasing the appeal site would add to the oversupply of land in Rossendale, contrary to the objectives of Policy 12 of the Structure Plan. Although there would be environmental benefits in finding a use for an increasing derelict site in a sustainable location, which would also improve the outlook of local residents, that does not outweigh the harm to carefully considered local housing policies and priorities. I come to that view noting that the reuse again of the site for employment would be strategically less desirable, given the amount of such land in the Borough.
8. On my second issue, the provision of a new access from Booth Road and the closure of the existing sub standard one on Burnley Road East would remove a hazardous junction on that latter road. The location of the new access relative to the junctions of Booth Road, Burnley Road East and Turnpike has been agreed with the highway authority and I accept the appellant's expert evidence that both the spacing and the visibility splays would provide a safe means of access and egress. The development would generate a very low number of peak hour movements with a less than 2% increase in flows on Booth Road.
9. Concerns about the impact on pedestrians, especially school children, who use Booth Road are understood. The hazard at the nearby river bridge with its single footway exists at present and I not regard the additional minor junction as adding significantly to the risk of accidents. Forward visibility for drivers and pedestrians will remain good. I conclude therefore that the proposed development would not give rise to problems of highway safety. That does not outweigh my conclusion on land supply that leads to a dismissal of the appeal.

Keith P Durrant

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Roberta Cameron	Seddon Homes, 3 Crab Lane, Warrington WA2 0XP
Ken Whittaker	Seddon Homes, 3 Crab Lane, Warrington WA2 0XP
Paul Corbett	JMP Consulting Blackfriars House, Manchester
Terry Sheldon	Tonrose Ltd, Petre Road, Accrington BB5 5JZ

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Stray	Rossendale Borough Council
Cllr Ronald Neal	Rossendale Borough Council
Neil Birtles	Rossendale Borough Council

INTERESTED PERSONS:

Peter Boys	B & E Boys, Todd Carr Road, Waterfoot BB4 9SJ
David Goy	115 Burnley Road East, Waterfoot BB4 9DF
Ann Goy	115 Burnley Road East, Waterfoot BB4 9DF
Karen Edwards	111 Burnley Road East, Waterfoot BB4 9DF

ADDITIONAL DOCUMENTS submitted at the hearing

- 1 Updated Housing Supply Position 2006/2007 (LPA)
- 2 S.106 Unilateral Undertaking (Appellant)
- 3 Comments on s.106 (LPA)



Appeal Decision

Site visit made on 17 July 2007

by **N A C Holt** TD BArch(hons) DipTP
DipCons RIBA MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@plins.gsi.gov.uk

Date: 2 August 2007

Appeal Ref: APP/B2355/A/07/2037910

Springfield House, Newchurch Road, Rawtenstall

- 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 Mr J Platt against the decision of Rossendale Borough Council.
- The application Ref 2006/585, dated 10 August 2006, was refused by notice dated 18 December 2006.
- The development proposed is: Conversion of coach house to single dwelling.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would have unacceptable consequences in terms of the local housing supply.

Reasons

3. The proposal relates to the conversion of an existing two storey stone building, together with a flat-roofed lean-to, to a dwelling. The building is within the curtilage of Springfield House and within the developed area of Rawtenstall.
4. Work is currently in progress to up-date the housing target figures for each local planning authority in the North West Regional Spatial Strategy (RSS), but until the process has been concluded, preference should be given to the housing figures in the adopted Structure Plan. The Structure Plan figures reflect the priority that the current RSS attaches to the focussing of development on the North West Metropolitan Area.
5. The joint Lancashire Structure Plan indicates that Rossendale's contribution to the County's housing supply in the period 2001 to 2016 should be 1920 dwellings with an annual provision of 220 from 2001 to 2006 and 80 from 2006 to 2016. As at April 2004 it was recognised that even if no new permissions were given in the period to 2016, the Structure Plan figure would be exceeded.
6. In the light of the potential serious over-provision, and recognising that the relevant policies of the Rossendale District local Plan were out of date, the Council have imposed a policy of severe restraint on new housing development with their Interim Housing Position Statement that was issued in August 2004. This indicates that permission for new residential development will only be

forthcoming in cases of replacement on a one for one basis, and in certain situations where a development would contribute to urban regeneration.

7. Whilst the appeal proposal may be within the developed area of Rawtenstall and it would meet normal site planning criteria in relation to matters such as access and design, it would fail to meet the criteria of the Council's Interim Housing Position Statement. Whilst a single house may itself make little difference in terms of overall supply, if the policy is not consistently applied cumulatively the consequences for the supply would be serious and undermine efforts to ensure that housing supply is properly monitored and managed.
8. In the absence of any special circumstances to justify an exception to the policy of restraint I consider that the Council should be supported in their efforts to contain the short-term housing supply.
9. I have taken account of all the other matters raised in the representations, including reference to recent cases in Rossendale where planning permission has been granted for residential development. It would appear that in the majority of cases where permission has been granted there were special circumstances. The other matters that were raised do not alter my conclusion that the appeal should be dismissed because of the cumulative unacceptable consequences for housing supply of proposals such as this.

Neil A C Holt

Inspector



Appeal Decision

Site visit made on 9 July 2007

by **Elizabeth C Ord** LLB(Hons) LLM MA
DipTUS

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Date: 25 July 2007

Appeal Ref: APP/B2355/A/07/2038676

Britannia Mill, Mill Street, Haslingden, Rossendale, BB4 5JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Winfield Shoe Co. Ltd. against the decision of Rossendale Borough Council.
- The application Ref 2006/642, dated 13 November 2006, was refused by notice dated 9 January 2007.
- The application sought planning permission for change of use to retail, offices, storage, motorcycle museum, café and workshops and provision of access and parking without complying with a condition attached to planning permission Ref 2002/348, dated 8 July 2002.
- The condition in dispute is No. 8 which states that: The new access road between the site and Vale Street (i.e. running parallel with the A56 by-pass) shall be constructed in accordance with Lancashire County Council Specification for construction of estate roads to at least base course level before any development takes place within the site.
- The reason given for the condition is: To ensure that satisfactory access is provided to the site before the development hereby permitted becomes operative and to accord with Policy DC1 of the Rossendale District Local Plan.

Decision

1. I allow the appeal and grant planning permission for change of use to retail, offices, storage, motorcycle museum, café and workshops and provision of access and parking at Britannia Mill, Mill Street, Haslingden, Rossendale, BB4 5JW in accordance with the application Ref 2006/642, dated 13 November 2006, without compliance with condition number 8 previously imposed on planning permission Ref 2002/348 dated 8 July 2002 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:
 - 1) The new access road between the site and Vale Street (i.e. running parallel with the A56 by-pass) shall be constructed in accordance with Lancashire County Council Specification for construction of estate roads to at least base course level before the development hereby permitted becomes operative.

Reasons

2. The appeal site, which is accessed from the adopted highway, is occupied by a former mill and outbuildings with space for vehicle parking. The extant planning permission for the site (ref: 2002/348) involves the construction of a new access road from Vale Street to serve the development and allow the existing access from Mill Street to be restricted to deliveries only.
3. Condition no.8 requires the new access to be constructed to at least base course level before any development takes place. However, the reasoned justification does not reflect this, but says it is to ensure that there is a satisfactory access before the site becomes operative. The appellants are content to construct the access road as required before the site becomes operative but not before development starts. This is because certain works could be carried out more efficiently, if done simultaneously with the access, such as demolition, construction of new hardstandings and car parking.
4. The Highways Agency has no objection to the variation sought and states that it would not lead to a material impact on the trunk road network. I have no reason to disagree with this. However, Lancashire County Council, as the Highway Authority, has concerns about vehicles not gaining access to the site, resulting in parking or queuing on the surrounding streets and inspections and wheel washing not taking place on site.
5. I take the view that these concerns are misplaced. The existing access from Mill Street, which is available for construction traffic and visitors, is adequate for this purpose, and there is ample land available for on-site parking. The appellants' undisputed evidence is that there is also parking available at the adjacent Albert Mill. The proposed variation to the condition only applies to the construction period of the development, during which time the existing road layout would not be changed.
6. Therefore, having considered all matters raised, I find that condition no. 8 is unreasonable and does not accord with its reasoned justification. Providing the new access is constructed prior to the site becoming operative, this would be sufficient to safeguard the safe passage for vehicles, pedestrians and cyclists on the roads adjacent to the site. Consequently, substituting condition no. 8 with the condition imposed herein would comply with Policy DC1 of the Rossendale District Local Plan, which sets out development control criteria including highway safety issues.

Elizabeth C. Ord

INSPECTOR



Appeal Decision

Site visit made on 17 July 2007

by **N A C Holt** TD BArch(hons) DipTP
DipCons RIBA MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Date: 18 July 2007

Appeal Ref: APP/B2355/A/07/2041295 69 Holland Avenue, Rawtenstall

- 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 Mrs J Begum against the decision of Rossendale Borough Council.
- The application Ref 2007/04, dated 4 January 2007, was refused by notice dated 2 March 2007.
- The development proposed is: Two storey extension to rear of house.

Decision

1. The appeal is allowed and planning permission is granted for a two storey extension at 69 Holland Avenue, Rawtenstall in accordance with the terms of application 2007/04, dated 4 January 2007 and the drawings submitted therewith subject to the following condition:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) Before development commences, notwithstanding the content of the approved drawings, details of the external facing materials shall be submitted to and agreed in writing with the local planning authority and the development shall be carried out in accordance with the agreed details.

Reasons

2. The appeal property forms one of a terrace of 4 stone built houses on the north-east side of Holland Avenue. To the north-west and south-east and on the opposite side of the road are similar terraces.
 3. Whilst the properties present a unified appearance to the street frontage there have been alterations and extensions to the rear. I observed a conservatory extension at No. 65 which is in the same terrace block as the appeal premises and at No. 73, in the block to the north-west, there is a two storey rear extension very similar to that proposed.
 4. The land falls towards the east and the rear of the properties on the north-east side of Holland Avenue can be seen from the area of Collinge Street. However the extension has been designed with respect to the form and appearance of the existing house and whilst there would be a change to the overall massing of the terrace I am not convinced that the proposal would appear as a
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discordant feature that would have unacceptable consequences in visual terms. It would however be important that the materials reflected those of the existing house but this is a matter that could be addressed by a condition requiring agreement of external facing materials.

5. I have also considered the potential effect of the extension on the amenity of residents of the neighbouring properties. Whilst I note that there are no objections from the residents of the adjoining houses I consider that there would be some effect on the daylight and sunlight enjoyed at the rear of Nos. 67 and 71. I also appreciate the point of the Council that the very similar extension at No. 73 was on an end terrace and would have a lesser impact in terms of daylight and sunlight. However, bearing in mind the dimensions of the proposed extension, with an overall projection of around 4m of which around 3m would be 2 storey, and the orientation of the terrace, where the living rooms and main bedrooms are on the street frontage facing towards the south west, on balance, I do not consider that the impact of the extension on daylight and sunlight enjoyed at Nos. 67 and 71 would be so serious as to merit the rejection of the proposal. I am also satisfied that the proposal would not have unacceptable consequences in term of the outlook from the neighbouring houses.
6. I have taken account of all the other matters raised in the material before me but these do not alter my view that the proposal would not lead to material conflict with policies 1 and 20 of the Joint Lancashire Structure Plan, policy DC1 of the adopted Rossendale District Plan. It is consequently my conclusion that the appeal should be allowed.

Neil A C Holt

Inspector



Appeal Decision

Site visit made on 27 March 2007

by **Karen Baker** DipTP MA DipMP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date: 29 March 2007

Appeal Ref: APP/B2355/A/06/2030916

454 Rochdale Road, Bacup, Lancashire OL13 9SD

- 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 Mr C Howorth against the decision of Rossendale Borough Council.
- The application Ref. 2006/443, dated 10 August 2006, was refused by notice dated 26 September 2006.
- The development proposed is a 2 storey extension to rear.

Preliminary Matters

1. Planning permission was first granted for the erection of the proposed extension on 23 October 1996 (Ref. 96/383) and again on 14 August 2001 (Ref. 14/2001/264).

Decision

2. I allow the appeal, and grant planning permission for a 2 storey extension to rear at 454 Rochdale Road, Bacup, Lancashire OL13 9SD in accordance with the terms of the application, Ref. 2006/443, dated 10 August 2006, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Reasons

Character and Appearance

3. The appeal property is located towards the north western end of a traditional terrace of 10 two storey dwellings. The proposed development would include the extension of No. 454 Rochdale Road to the rear. The proposal would extend the dwelling outwards by around 3.7m and 2.15m, at ground and first floors respectively, across its full width. No other dwelling in this terrace has been extended in this way. Nevertheless, given its siting to the rear of the dwelling, along with its design and modest scale and mass, I do not consider that the proposed extension would appear visually obtrusive or prominent in the streetscene.
 4. I conclude, therefore, that the proposed development would not harm the character and appearance of the area. As such, it would accord with Policy 1 of the Joint Lancashire Structure Plan, adopted in 2005, and Policy DC:1 of the Rossendale District Local Plan, adopted in 1995.
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Living Conditions

5. The proposed extension would be sited close to the boundaries with the neighbouring dwellings at Nos. 452 and 456 Rochdale Road. It was apparent from my site visit that both of these dwellings have a kitchen window and door, at ground floor level, along with a bedroom and bathroom window, at first floor level, within their rear elevations. Each property within this terrace has a small rear yard and these are mostly separated from each other by walls of around 1.5m in height. To the north east of these yards, the land rises sharply to the rear pedestrian access path and grassed area beyond.
6. In my opinion, given the modest scale and mass of the proposed extension, along with its set back at first floor level, it would not appear dominant or overbearing when viewed from within the neighbouring dwellings or their rear yards. In addition, given its orientation, along with the height, scale and mass of the proposed extension, I do not consider that it would lead to any undue loss of daylight or sunlight within the neighbouring houses or their rear yards.
7. I conclude, therefore, that the proposed development would not unduly harm the living conditions of neighbouring residents, with particular reference to outlook, sunlight and daylight. As such, it would not be contrary to Structure Plan Policy 1 or Local Plan Policy DC.1.

Other Matters

8. I have considered all of the other matters raised, but none changes my overall conclusion that the appeal should be allowed.
9. In addition to the standard time limit condition, the Council has suggested a further 2 conditions. I have had regard to the advice in Circular 11/95 during my consideration of these conditions. I am satisfied that a condition requiring the use of matching materials would be reasonable to safeguard the character and appearance of the area and the existing dwelling. However, I do not consider that a condition restricting the hours of construction works would be necessary to safeguard the living conditions of neighbouring occupiers, given the scale of the development proposed.

Karen Baker

INSPECTOR



Appeal Decision

Site visit made on 27 March 2007

by I D Jenkins BSc CEng MICE MCIWEM

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date: 18 April 2007

Appeal Ref: APP/B2355/A/06/2033532

2 Hapton Way, Loveclough, Rossendale, BB4 8QG

- 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 Mr & Mrs Gibson against the decision of Rossendale Borough Council.
- The application Ref 2006/462, dated 3 August 2006, was refused by notice dated 3 October 2006.
- The proposed development is described as levelling of side garden to the same height, with retainer wall and fencing around the perimeter of the property.

Decision

1. I dismiss the appeal.

Reasons

2. The appeal property is a detached house which is situated on a corner site at the junction of Hapton Way with Greenfold Drive. The side garden of No. 2, which separates the dwelling from the southeastern side of Greenfold Drive, tapers from the back to the front of the site. In general terms the side garden is in two parts: a patio area which adjoins the side of the house and is enclosed along its southwestern and northwestern boundaries by a low wall and gates; and, a strip of land which slopes down from the patio area to the edge of the highway and comprises the appeal site. A short driveway is located within the site towards the rear of the house and the remaining area contains planting, which for the most part screens the wall around the patio area from view from Greenfold Drive.
3. Policy DC.1 of the *Rossendale District Local Plan (LP)* indicates that in general all development proposals will be expected to provide a high standard of buildings and landscape design, to contribute to environmental quality and not to be detrimental to existing conditions in the surrounding area. The street scene is generally characterised by gardens adjoining the highway that are relatively open. Although a limited number of roadside garden boundaries are enclosed by hedging, to my mind these tend to soften the appearance of the built development and contribute positively to the surroundings. There are few examples of roadside boundary treatments with a harder appearance, such as fencing. Where fencing has been used the lengths involved are short. I consider that overall the street scene has an open appearance.
4. The proposal includes levelling of the appeal site. Whilst the planning application form also indicates that a retaining wall and fence would be erected around the perimeter of the property, in their appeal submissions the appellants have described the proposed boundary enclosure as relating only to the side garden. The application plan provided to illustrate the proposal is of a poor quality and the extent of the proposed retaining wall is unclear. No sectional drawings have been provided or other conclusive evidence to confirm the height of the proposed retaining wall. In addition, although the planning application form indicates that the proposed fence

would be around 1.2 metres high, the fence details submitted as part of the application show a type of close boarded fence panel some 1.8 metres tall. I agree with the Council that the information supplied in support of the planning application is insufficient to enable a detailed assessment to be made concerning the likely visual impact of the proposal. Furthermore, I am concerned that the enclosure of the appeal site boundaries in a manner insensitive to the surroundings would be likely to significantly harm the character and appearance of the street scene.

5. In their grounds of appeal the appellants have indicated that a house across the road has carried out a similar development to that which is proposed and at the site visit they drew my attention to No. 13 in support of this view. However, based on the evidence presented, it appears to me that the proposed boundary treatment is likely to be materially different from that which encloses the side garden of this neighbouring dwelling. The levelled side garden of No. 13 is enclosed by a retaining wall along the boundary it shares with Greenfold Drive. The wall projects a short distance above the level of the garden. Whilst the wall is topped along part of its length by fencing, it is of an open boarded design and at the site visit the Council and appellant agreed that it is only around 0.6 metres high. I consider that the side garden of No. 13 retains an open appearance.
6. To my mind depending on its height, position and overall length the proposed development could have the appearance of an obtrusive addition to the street scene. I conclude that, based on the evidence presented, I cannot be sure that the proposal would not unacceptably harm the character and appearance of the street scene, contrary to LP Policy DC.1.
7. I have considered all of the other matters raised. The appellants have indicated that the proposed works are intended to provide more play space for their children and improve their privacy. However, I am not satisfied that the benefits of the proposal in these respects would outweigh the potential harm to the character and appearance of the street scene. Although I note the concerns of the appellants regarding the Council's handling of their application, they do alter the planning merits of the case upon which my decision must be based. Neither these, nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusion regarding the potential impact of the proposal on the character and appearance of the street scene.

Ian D Jenkins
INSPECTOR