



TITLE:	PLANNING APPEAL RESULTS
TO/ON:	DEVELOPMENT CONTROL COMMITTEE
BY:	NEIL BIRTLES
LEAD MEMBER:	COUNCILLOR CHALLINOR
STATUS:	FOR PUBLICATION

1. PURPOSE OF THE REPORT

1.1. To inform Committee members of the result of the appeals

2. RECOMMENDATIONS

2.1 That the report be noted

3. REPORT AND REASONS FOR RECOMMENDATIONS AND TIMETABLE FOR IMPLEMENTATION

3.1 In September 2004 permission was refused for the creation of a unit of residential accommodation above Healey Conservative Club by way of conversion/extension of the upper floor and roof-void.

3.2 This appeal decision is particularly worthy of note as the Inspector considered the appeal proposal in relation to the issue of housing-oversupply (see Paragraphs 11–15 of the Inspectors decision letter).

3.3 In short:

- The application was not refused on the grounds of housing –oversupply.
- The new Structure Plan was adopted between the date of the Council’s decision and the informal hearing to consider the appeal
- The Inspector (quite rightly) took the view that he must consider the appeal in relation to the Development Plan as it now is rather than as it was at the time of the Council’s Decision.
- Housing policy being such an important ‘plank’ of planning policy, the Inspector decided that he should first consider the appeal proposal in

relation to housing –oversupply before turning his attention towards the reasons which led the Council to refuse the application.

- The Inspector considered the application of housing development restraint to be fully justified at this time in Rossendale Borough, there clearly being a significant oversupply of housing land with planning permission.
- The Inspector concluded that the one dwelling which would result from the appeal proposal, though it would contribute to housing-supply in only a small way, ought to be refused permission – it could be repeated all too often, cumulatively undermining national, regional and Structure Plan policy towards housing.

4. CORPORATE IMPROVEMENT PRIORITIES

4.1. FINANCE AND RISK MANAGEMENT

- 4.1.1. Quality service, better housing, the environment, regeneration and economic development, confident communities.

4.2. MEMBER DEVELOPMENT AND POLITICAL ARRANGEMENTS

- 4.2.1. N/A

4.3. HUMAN RESOURCES

- 4.3.1 **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. ANY OTHER RELEVANT CORPORATE PRIORITIES

- 5.1. N/A

6. RISK

- 6.1. N/A

7. LEGAL IMPLICATIONS ARISING FROM THE REPORT

- 7.1 The Committee will need to be mindful of this Appeal decision, and the reasons for it, in the determination of future planning applications.

8. EQUALITIES ISSUES ARISING FROM THE REPORT

8.1 N/A

9. WARDS AFFECTED

9.1 Healey/Whitworth

10. CONSULTATIONS

10.1 N/A

11. Background documents:

12.1 2004/164 – Erection of 2nd floor extension to form managers living accommodation at Healey Conservative Club, Market Street, Whitworth.
REFUSED

For further information on the details of this report, please contact: Neil Birtles on 01706 871609



Appeal Decision

Hearing held on 9 August 2005

Site visit made on 9 August 2005

by **Michael R Moffoot** DipTP MRTPI DipMgt MCMI

an Inspector appointed by the First Secretary of State

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Date

07 SEP 2005

Appeal Ref: APP/B2355/A/04/1168352

Healey Conservative Club, Market Street, Whitworth OL12 8RW

- 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 P Reed against the decision of Rossendale Borough Council.
- The application, Reference 2004/570 dated 30 July 2004, was refused by a notice dated 23 September 2004.
- The development proposed is a flat over club.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. At the Hearing an application for costs was made by Mr P Reed against Rossendale Borough Council. This application is the subject of a separate Decision.
2. An amended 1:1250 scale location plan showing the appeal site in red and adjoining land in the Appellant's ownership in blue was submitted at the Hearing, and I have based my decision on this plan.

Planning Policy Background

3. At the Hearing the Council confirmed that, since the decision on the application at appeal, the new Structure Plan has been adopted. Accordingly, the development plan for the area includes *Regional Planning Guidance for the North West* (RPG 13) published in 2003, the *Joint Lancashire Structure Plan 2001-2016* and *Rossendale Borough Local Plan*, adopted in 2005 and 1995 respectively. Of the policies referred to, I consider the following to be the most relevant to my decision.
 4. Policy UR7 of RPG13 includes a requirement for local planning authorities to monitor and manage the availability of land in development plans to achieve the annual average rates of housing provision set out in Table 5.1, which for Lancashire totals 2,690 dwellings, whilst Policy UR8 states, amongst other things, that phasing mechanisms in development plans should secure the development of previously-developed land and buildings in urban areas as a first priority.
 5. Policy 1 of the Structure Plan primarily directs new development to the principal urban areas, main towns, key service centres (market towns) and strategic locations for development in order to achieve various objectives, including the efficient use of building land, high accessibility, sustainable development, urban and rural regeneration and a high quality built environment. Outside these designated areas, Policy 5 includes a requirement for development to be of a scale and nature appropriate to its location and mostly situated in villages and other settlements identified in local plans. The appeal site lies within the
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Lancashire Green Belt, where Policy 6 says that the general extent of the Green Belt will be maintained. Policy 12 sets out the amount of new housing required in the Plan period and states that priority will be given to the re-use of previously-developed land at selected locations in preference to developing greenfield land.

6. Policy DS.1 of the Local Plan seeks to locate most new development within the 'urban boundary' as defined on the Proposals Map, beyond which development will be resisted unless it complies with Policies DS.3 and DS.5. Consistent with advice in Planning Policy Guidance Note 2: *Green Belts* (PPG2), Policy DS.3 states that within the Green Belt permission will not be given except in very special circumstances for the erection of new buildings and change of use of existing buildings other than for agriculture, forestry, outdoor sport and recreation, cemeteries, institutions in extensive grounds or other uses appropriate to a rural area. Policy DS.5 says that development outside the urban boundary or Green Belt will be restricted to that needed for agriculture, forestry or other uses appropriate to a rural area or the rehabilitation and re-use of existing buildings subject to compliance with other policies. Policy DC.1 requires a high standard of building design in development proposals that contributes to environmental quality and does not harm its surroundings. It sets out criteria for considering proposals, including the size and intensity of the development and its relationship to existing services, community facilities and public transport.
7. In July 2005 the County Council issued a Statement of Non-Conformity in relation to various policies in the Local Plan which are not in general conformity with the newly-adopted Structure Plan, including Policy DC.1 which is inconsistent with the sequential approach to development set out in Policy 1 of the Structure Plan.
8. At the Hearing the Council submitted a draft *Housing Policy Position Statement* (HPPS) which was due to be considered by its Executive Committee on 17 August 2005. The document sets out a strategy for determining proposals for residential development in the Borough following publication of a consultative *Interim Housing Policy* in 2004 that was not pursued to adoption for a number of reasons, including the implications of the Statement of Non-Conformity for the Council's housing policies. The policy approach set out in the HPPS states that proposals for residential development, including conversions of non-residential buildings to dwellings, will be refused on housing land supply grounds unless, amongst other things, they would assist regeneration of the site and meet an identified local housing need. The document has not been subject to public consultation nor, at the date of the Hearing, had it been formally considered by the Council and, although it is a material consideration, it must be accorded very limited weight in my decision.
9. Relevant national guidance is to be found in Planning Policy Statement 1: *Delivering Sustainable Development*, PPG3: *Housing* and PPG13: *Transport*.

Main Issues

10. I consider the main issues in this case to be:
 - (i) the effect of the proposal on housing provision in the Borough having regard to national and local policy;
 - (ii) whether the proposal amounts to inappropriate development in the Green Belt as defined in national guidance in PPG2 and development plan policy;

- (iii) the effect of the proposed development on the character and appearance of the existing building and surrounding area;
- (iv) whether the proposed development would meet sustainability objectives found in national and local planning policy; and
- (v) whether the benefits of the scheme would clearly outweigh any harm resulting from the above issues and thus justify the development on the basis of very special circumstances.

Reasons

Housing Provision

11. A fundamental objective of PPG3 requires local planning authorities to manage the release of housing sites over the development plan period so as to control the pattern and speed of urban growth and deliver the authority's recycling targets¹. RPG13 directs a significant proportion of new housing development to the North West Metropolitan Area, and particularly the Liverpool/Manchester Corridor, so as to promote regeneration in these areas. As a consequence, more modest development is required in the remaining areas, including Rossendale.
12. The development plan policy framework for Rossendale requires the provision of sufficient land to meet local housing needs, which Policy 12 of the Structure Plan assesses at 1,920 dwellings for the Plan period, with a proposed annual average of 220 dwellings between 2001-2006 and 80 between 2006-2016. Notwithstanding housing figures referred to in the Council's Planning Committee report of 27 September 2004 in respect of the appeal proposal, evidence submitted at the Hearing² indicates that, as at April 2004, there were outstanding permissions for 1,168 new dwellings in the Borough, and the Council advised that between 2001-2005, 824 dwellings had been completed through new build or conversion; a combined total of 1,992 dwellings. This clearly exceeds the housing provisions for the Borough for the Plan period set out in Policy 12 and it is quite evident there is significantly more than a 5 year supply of housing land with permission. Paragraph 6.3.13 of the Structure Plan states that "*where there is a significant over-supply of housing permissions, planning applications for further residential development may not be approved unless they make an essential contribution to the supply of affordable or special needs housing or form a key element within a mixed-use regeneration project*". These circumstances do not apply to the case at appeal.
13. The Appellant submits that the single dwelling proposed would not, in itself, fundamentally conflict with the strategic objectives of PPG3 or significantly undermine the aims of Policy 12 of the Structure Plan. However, I consider it would contribute to the significant over-supply of housing in the Borough, albeit in a small way, and could be repeated all too often, cumulatively undermining national and regional policies that seek to plan, monitor and manage housing supply. The Council advises that the Structure Plan policy restraint has escalated since adoption of the Plan in March 2005 and I acknowledge that housing provision in the Borough and Region is in a state of flux, which makes it all the more important for the appeal proposal to be carefully appraised and caution exercised in

¹ Paragraph 33, PPG3

² Draft *Housing Policy Position Statement*

assessing the implications for housing against the current state of over-supply in the Borough.

14. The Appellant drew my attention to a number of recent permissions for residential development in the locality and, in particular, a scheme at 55-61 Market Street, Whitworth, where consent has been granted to convert a former shop and dwellings to form 5 self-contained apartments. Although there may be parallels with the appeal proposal, I am not familiar with the full circumstances that led to this and the other developments referred to being granted, and as it is a well-established planning principle that each proposal has to be determined on its own merits, that is what I have done in this case.
15. For these reasons I consider on the first issue that the application of development restraint is fully justified in the circumstances of the appeal case and conclude that the proposal would aggravate the existing over-supply of housing in the Borough, in conflict with Policy UR7 of RPG13, Policies 1 and 12 of the Structure Plan and national guidance in PPG3.

Green Belt

16. The appeal property comprises a detached 3-storey building that occupies an elevated site fronting the busy A671 Market Street in Whitworth, a linear settlement in open countryside to the north of Rochdale. The proposal involves conversion of an existing top floor function room and roofspace, the formation of front dormers and a mansard roof to the rear and extensions to each end of the building to form an independent, 3-bedroomed dwelling.
17. The Appellant conceded at the Hearing that the proposal constitutes inappropriate development in the Green Belt. Paragraph 3.2 of PPG2 states that inappropriate development is, by definition, harmful to the Green Belt, whilst paragraph 1.4 advises that the most important attribute of Green Belts is their openness. The proposed extensions to the sides and rear of the property would be relatively large and clearly visible from the front on Market Street and from more limited viewpoints in Ending Rake to the south east. In my view their bulk and height would diminish the sense of openness in this part of the Green Belt and erode the semi-rural qualities of the area.
18. Accordingly, I conclude on the second issue that the proposal would represent inappropriate development that would unacceptably harm the openness of the Green Belt, in conflict with the objectives of Policy DS.3 of the Local Plan and national guidance in PPG2.

Character and Appearance

19. The appeal site is outside the settlement limits for Whitworth as defined on the Local Plan Proposals Map and is therefore part of the open countryside for planning purposes, where new dwellings are not normally permitted under development plan policies. The proposal does not fall within any of the limited categories of development permitted under Policy DS.5 of the Local Plan, and in my view the scheme would unacceptably consolidate the sporadic development that is a characteristic of land outside defined settlement limits in the area and would consequently harm its rural qualities. This would be particularly evident in elevated public views from land to the rear of the site, from where the building is viewed against a rural backdrop that would be compromised if the appeal were to succeed. The Appellant argues that the unique circumstances of the case justify permission, but I agree with the Council that other non-residential properties in the area outside settlement limits

may become vacant and could similarly come forward for conversion, cumulatively eroding the rural character of the area.

20. I now turn to concerns regarding the design and appearance of the proposal. The existing building occupies a prominent site on the busy A671 close to its junction with Shawclough Road. Surrounding development is predominantly residential in character and in the immediate vicinity of the site largely comprises traditional terraced properties of local stone construction under slate roofs. Within this context the appeal building is a conspicuous structure, due largely to its elevated setting, attractive stonework and architectural detailing. Although it is not listed or within a conservation area, I regard it an important component of the streetscape in this part of Whitworth.
21. The proposed alterations and extensions would fundamentally change the appearance of the property and unacceptably harm its traditional character and presence in the streetscene. The existing gabled element at the northern end of the building is an attractive feature that enhances the property but its qualities would be severely compromised by the proposed extension, and the impact of the alterations would be reinforced by dormer windows with railings wholly out of keeping with the existing building and surrounding properties. To the rear, the proposed mansard roof would be an ungainly feature that would serve to unbalance the gable and draw the eye to the random and visually confusing mix of alterations on the southern gable.
22. I therefore conclude on the third issue that the proposal represents new residential development in the countryside contrary to rural restraint policies in the development plan, and would result in unacceptable harm to the character and appearance of the existing building and its surroundings, in conflict with Policies 1 and 5 of the Structure Plan and Policies DS.1 and DS.5 of the Local Plan.

Sustainability

23. The undisputed evidence of the Appellant shows that within a 1 kilometre radius of the site there is a range of basic services, including a food shop and 2 primary schools. Within a 2 kilometre radius there are 4 post offices and a medical practice. The site lies on a principal arterial route that is well served by public transport, with over 200 buses passing the property each day.
24. The settlement hierarchy in the development plan seeks to concentrate most new development in established urban areas, consistent with guidance in PPGs 3 and 13, and I acknowledge the sustainability objectives that underpin it. I have also found that the appeal site does not meet development plan criteria to justify a new dwelling in this rural location. However the site is not remote from urban areas and enjoys good access to a range of services and facilities including schools, shops, employment opportunities and leisure and health facilities that are accessible by foot, bicycle or public transport. Accordingly, I do not consider that the site is in an unsustainable location that would result in undue reliance on the private car and hence undermine strategic sustainability objectives.
25. I therefore conclude on the fourth issue that the proposal would not conflict with sustainability objectives in Policy 1 of the Structure Plan and guidance in PPG3 and PPG13.

Very Special Circumstances

26. In the light of the above findings it is necessary for me to consider whether there are any very special circumstances sufficient to outweigh the general presumption against inappropriate development. The Appellant submits that security problems at the premises, the urgent need for repairs to the building and the financial circumstances of his tenants justify the development, and the scheme would help safeguard jobs and retain a community facility, including the associated bowling green, which may otherwise have to close. Taken together, he argues these factors amount to very special circumstances to justify the development.
27. I have no doubt that the proposal would secure much-needed improvements to the fabric of the property and reduce the overheads for the club by relieving it of an under-used function room. Furthermore, I agree that a residential presence would be likely to deter criminal activity when the accommodation is occupied, although I consider that the present and rather limited security arrangements would benefit from upgrading in order to be more effective. However, no detailed or compelling evidence was presented to demonstrate the financial circumstances of the club or the cost of the repair work needed, nor has any exercise been undertaken to assess the feasibility of alternative uses for the function room that may offset running costs and help retain the rest of the facility and the small-scale employment it provides. Whilst it may help retain an existing community facility, I do not see how this would support rural regeneration to any material extent, as the Appellant suggests, and whilst the proposal would make efficient use of an underused part of the building, the proposal includes significant extensions that conflict with national and local policies which generally seek to safeguard the Green Belt and rural areas from new development, to which I have attached greater weight.
28. I conclude that the proposal would be inappropriate development in the Green Belt, cause harm to the openness of the area, erode its rural qualities and have a detrimental impact on the character and appearance of the existing building and its surroundings, and no very special circumstances exist to justify setting aside the presumption against inappropriate development. In my view these are compelling reasons to dismiss the appeal which are not outweighed by my conclusions on the sustainability issue.

Other Matters

29. I note the Appellant's reference to inconsistency by the Council in its decisions on the application at appeal and an earlier submission despite there being no material change in the policy background in this period. However, whilst these circumstances may be unfortunate, these concerns relate to procedural matters that are not for me to comment on and do not affect my consideration of the merits of the case. Similarly, concerns regarding correspondence with the Council following receipt of the second decision are for the Appellant to pursue with the Authority, and do not have a bearing on my decision.
30. I have also taken into account the various other submissions made by interested parties regarding the proposal. However many concern matters unrelated to the appeal that do not affect my judgement of the issues that I consider relevant to the case. In terms of loss of daylight and sunlight, privacy or any other effect upon living conditions of those occupiers in the vicinity of the appeal site, I consider that the impact of the development would not be so materially harmful as to warrant dismissal of the appeal on these grounds.

31. The parking that presently takes place on the restricted forecourt of the appeal property would not be appreciably intensified by the development to the degree that highway and pedestrian safety would be unduly compromised, nor would visibility to the north for motorists emerging from Ending Rake be materially reduced, and I have seen no evidence to show that a public right of way crosses the site. Only light pruning of trees on land adjoining the site would be necessary to accommodate the development, and that is a matter between the landowners involved. Finally, concern regarding possible sub-division of the property to form 3 dwellings is not a matter before me in this appeal.

Conclusions

32. For the reasons given above and having regard to all other matters raised, including support from the Healey Conservative Club, I conclude that the appeal should be dismissed.

Formal Decision

33. I dismiss the appeal.



INSPECTOR