

TITLE: 2005/142 ERECTION OF 162 HOUSES ON LAND OFF ROCHDALE ROAD, BACUP

TO/ON: DEVELOPMENT CONTROL COMMITTEE 10th NOVEMBER 2005

BY: TEAM MANAGER DEVELOPMENT CONTROL

DETERMINATION EXPIRY DATE: 6TH JUNE 2005

APPLICANT: WAINHOMES DEVELOPMENTS

DETERMINATION EXPIRY DATE: 6TH JUNE 2005.

Human Rights

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

Article 8

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

Article 1 of Protocol 1

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

This application was deferred from a previous committee in order that issues relating to the enforceability of conditions recommended by the Highway Authority relating to off-site works of highway improvement could be resolved. Additionally the application has been amended deleting a proportion of the site which will now be developed for 21/23 dwellings in accordance with an earlier extant consent from 1976. The application has also been re-advertised to comply with the provisions of the Town & Country Planning (General Development Procedure) Order 1995.

Site and Proposal

The site is a roughly rectangular shaped are of open land of approximately 7.7 hectares and lies on the southern side of Rochdale Road, and dissected by Stack Lane which connects Rochdale Road with New Line. The site is situated outside of the urban boundary, as defined in the Rossendale District Local Plan and is by definition a 'greenfield' site. It represents a major departure from the approved Development Plan.

The applicant seeks permission for the erection of 162 houses on a site with a substantial frontage to Rochdale Road, Bacup. Eight different house types are presented, which will provide 3 and 4 bedroom detached accommodation.

Relevant Planning History

1975/605 – Erection of 190 dwellings at Stack Lane, Rochdale Road, Bacup.

In July 1995 a Consent Order was issued in the High Court Chancery Division Leeds District Registry which concluded a legal challenge by Melham Holdings Limited (the then owners of the site) against the previously held position of Rossendale Borough Council that there was no valid planning permission relating to the site. The Consent Order stated that Rossendale Borough Council (the defendant) agreed and accepted that the planning permission 1975/605 was valid and capable of implementation. The planning permission remains valid to this day by reason of an accepted commencement of development within the original life of the permission.

Notification Responses

Site notices were posted and the following summarised comments have been received:

- The development is to be built on land that is designated as 'Countryside' and is therefore outside of the urban boundary.
- The land is classed as 'greenfield'.
- The impact of over 200 cars using already congested roads.
- The proposed development does not include areas of appropriate public open space.
- The proposed material for the development (brick) will look out of place within the locality.
- The proposed development will destroy habitats for badgers and lapwings which nest on this land.
- The sewage system will be unable to cope with an additional 186 households.
- It is known that mine workings are present on this land, which poses a risk of land instability for property.
- The proposed development is contrary to current planning policy.
- The proposals do not contain any renewable energy features
- The proposed development will conflict with the Housing Market Renewal Initiative, which is vital to the regeneration of Bacup.
- Impact on current infrastructure, e.g. schools, doctors and dentists.

Consultation Responses

County Planning Officer

It is considered that the proposed development represents a relative if very minor improvement in the site's contribution to the current situation of oversupply in Rossendale compared to the extant planning permission for 190 dwellings. While in the circumstances it would be unfeasible to prevent development of the site the location outside the settlement boundary on greenfield land is contrary to the Structure Plan and in particular Policies 1, 2, 5 and 12.

However, the following comments should be considered when making the decision

on the application to ensure that the development reflects current planning principles.

- Ecology** It is recommended that the determining Authority should seek information from the applicant to deal with the ecological issues within the site. The authority should seek advice from the specialist ecologists in the reviewing of such information.
- Landscape** A landscape plan should be required as a condition, showing planting proposals, including enhancements to Sheephouse Clough and structural tree planting to streets and boundaries, hedge planting/walling to boundaries and treatment of hard surfaced areas, including materials. The proposals should comply with Policy 20, in respect of the use of local stone in walling and surfacing and native species in structural tree and shrub planting.
- Transport** the scale of the proposed development requires the submission of a full Transport Assessment, Accessibility Questionnaire and Travel Plan. The "Parking Standards" indicate that for residential properties with 30+ dwellings, a maximum of 1.5 parking spaces per dwelling should be provided. The level of provision for car parking should not exceed the level indicated in the "Parking Standards". Policy 1b) of the Structure Plan requires development for all by walking, cycling and public transport. The site has good accessibility and is in line with this policy. It is recommended that a contribution of £20,000 be made to upgrade the nearest two bus stops to quality bus standards.

County Highways

I wish to make the following comments on the application as submitted:

1. Pedestrian links to the development are compromised by the substandard footway along the north side of Rochdale Road between Castletown Avenue and No 282a Rochdale Road. The applicant should undertake a widening of this footway to 1.8m along this length.
2. Scope for traffic calming on Rochdale Road is limited due to the width and private accesses. However, I would wish to see a lining scheme along the frontage in the form of central hatching to provide ghost islands for right turn movements into the site.
3. Access drives within the development serving >2, but <5 dwellings should be constructed to adoptable standards, illuminated and with appropriate turning heads as per the County Council's Residential Design Guide.
4. A safety barrier will be required at the southerly end of the westerly site access road off Rochdale Road due to the steep drop down to The Sidings.
5. The applicant will be required to contribute the sum of £300 per dwelling to the public transport infrastructure in the area to promote the sustainable transport options available to the residents of the development.

Subject to the above and the necessary conditions and notes being attached to any permission that may be granted, I would raise no objection to the proposal.

County Ecology Unit

Badgers

An active badger sett is situated within the application area. I recommend that the applicant be required to submit a detailed method statement for approval by

Rossendale Borough Council in consultation with Lancashire County Council ecologists, demonstrating how impacts on badgers and their setts will be avoided. The method statement should be based on advice given in recognised guidelines such as Badgers and Development (English Nature, 2002). Implementation of the approved method statement should be the subject of a planning condition.

English Nature should be consulted before this application is determined. A licence is likely to be required for works that may disturb badgers. I also recommend that the local Badger Group be consulted on the application and the adequacy of any method statement submitted.

Breeding Birds

Habitats on the site have the potential to support breeding birds, including ground nesting species. If the application is approved then works during the bird breeding season (March to July inclusive) should therefore be avoided where there may be an impact on nesting birds. This should be the subject of a planning condition.

Japanese Knotweed

Japanese knotweed (*Fallopia japonica*) is present within the application area. The Ecological Survey and Assessment submitted by ERAP includes proposals for the eradication of Japanese Knotweed. I recommend that Environment Agency guidelines for dealing with Japanese Knotweed be followed.

Landscape & Restoration

The landscaping proposals shown on Drawing 415 01 Rev C submitted by TPM shows conifer planting above Sheephouse Clough. This would not be appropriate and does not reflect the habitat enhancement proposals given in Figure 5 of the Ecological Survey and Assessment. Landscaping proposals should comprise only native plant communities appropriate to the natural area.

Maintaining and enhancing habitat connectivity within the application area and the wider landscape needs to be addressed in the overall design of the development. In this respect I recommend that a corridor of heathland/acid grassland habitat be re-established to connect existing heathland habitat on the south western side of the application area with the proposed restored heathland/acid grassland habitats above Sheephouse Clough.

Landscaping and restoration schemes should aim to contribute to targets specified in the UK and Lancashire Biodiversity Action Plans. In my opinion the landscaping and restoration proposals could be further developed to increase the contribution that would be made towards BAP targets. For example, I recommend that consideration be given to the installation of bat roosting opportunities, increasing the area of restored heathland and ensuring that hedgerows to be planted are species rich.

County REMADE Scheme

The application site is adjacent to a proposed REMADE site at Rockcliffe Meadows and would benefit from improvement of cycleway/pedestrian linkages.

RBC Environmental Health

No objections

Crime Prevention Officer

No response to date

Environment Agency

The Agency has no objection in principle to the proposed development subject to the inclusion of conditions which meet the following requirements:

The site lies within the upper reaches of the River Irwell catchment. In order to ensure that flood risk is not increased in the lower reaches the surface water run-off from the site requires careful consideration. The Agency would have no objections to the proposed development providing the rate of surface water run-off to any adjoining watercourse was not increased. Accordingly, if surface water run-off from the development is to be directed to a watercourse, either directly or indirectly, the rate of run-off must be limited to 3.5 litres/sec/hectare. This should be achieved by suitable controls in the drainage system.

English Nature

Comments to be reported at Committee.

United Utilities

A water supply can be made available to the proposed development. A separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999.

Water supply mains run through the site and on the boundary of the site and we will not permit building over them. Any necessary disconnection or diversion required as a result of any development will be carried out at the developer's expense. Under the Water Industry Act 1991, Sections 158 & 159, we have the right to inspect, maintain, adjust, repair or alter our mains. This includes carrying out works incidental to any of those purposes. Service pipes are not our property and we have no record of them. For diversionary costs please contact Ian Cole on 01925 235993.

Development Plan Policies

Rossendale District Local Plan

Policy DS2 (Settlements) of the Rossendale District Local Plan states that

1. Development will be concentrated in the main urban areas of Bacup Haslingden, and Rawtenstall (including Goodshaw to Loveclough)
2. To provide for the consolidation and small scale expansion of Whitworth.
3. To provide for development within, or by way of rounding off the built up area of Weir
4. To limit development in rural settlements outside the Greenbelt.

Policy DS5 (Development outside of the urban boundary and the green belts) of the Rossendale District Local Plan states that 'Outside the Urban Boundary and Green Belts, shown on the Proposals Map, development will be restricted to that needed for the purposes of agriculture, forestry or other uses appropriate to a rural area, or

the rehabilitation and re-use of buildings provided that they comply with policies DC.1 and C.6'

Policy E3 (Nature Conservation) of the Rossendale District Local Plan states that:

1. Favourable consideration will be given to
 - a) development proposals which increase the number, size and diversity of areas of nature conservation, importance particularly by environmental improvement schemes.
 - b) other relevant development proposals providing there will be no adverse effect on an SSSI, local nature reserve, important wildlife site or other habitat which, in the opinion of the local planning authority, have special significance.
2. The Council will seek to link natural habitats, greenlands and other open spaces in order to create wildlife corridors through both rural and urban areas. The Council will seek to link natural habitats, greenlands and other open spaces in order to create wildlife corridors through both rural and urban areas.

Policy C1 (Countryside) of the Rossendale District Local Plan states that 'Any development will be required to be in scale and keeping with the character of the landscape and of a standard of design appropriate to the area.'

Policy DC1 (Development Criteria) of the Rossendale District Local Plan.

The policy states that all applications for planning permission will be considered on the basis of a) location and nature of proposed development, b) size and intensity of proposed development; c) relationship to existing services and community facilities, d) relationship to road and public transport network, e) likely scale and type of traffic generation, f) pollution, g) impact upon trees and other natural features, h) arrangements for servicing and access, i) car parking provision, j) sun lighting, and day lighting and privacy provided k) density layout and relationship between buildings and l) visual appearance and relation to surroundings, m) landscaping and open space provision, n) watercourses and o) impact upon man-made or other features of local importance.

Policy DC2 (Landscaping) of the Rossendale District Local Plan states 'the Council will require the landscaping which will accompany all development proposals to be of a high standard and quality and at a scale appropriate to the development'

Policy DC3 (Public Open Space) of the Rossendale District Local Plan states that 'the Council will require the landscaping which will accompany all development proposals to be of a high standard and quality and at a scale appropriate to the development'

Policy DC4 (Materials) of the Rossendale District Local Plan states that 'local natural stone (or an alternative acceptable natural substitute which matches as closely as possible the colour, texture, general appearance and weathering characteristics of local natural stone) will normally be required for all new development in selected areas. Within those areas roofs shall normally be clad in natural stone slab or welsh blue slate, or, in appropriate cases, with good quality substitute slates'

Policy T14 (Roads in major residential sites) of the Rossendale District Local Plan states that 'Major residential development proposals will normally be expected to be designed so as to:-

- a) maintain vehicle speeds at a level consistent with optimum road safety
- b) provide facilities necessary to segregate pedestrians and cyclists from vehicular traffic

- c) improve the highway environment in residential areas by landscaping and tree planting
- d) reduce through traffic on residential streets

Joint Lancashire Structure Plan 2001 - 2016

Policy 1 (General Policy) of the Joint Lancashire Structure Plan states that: Development will be located primarily in the principal urban areas, main towns, key service centres (market towns) and strategic locations for development and will contribute to achieving:

- a) the efficient use of buildings, land and other resources;
- b) high accessibility for all by walking, cycling and public transport, with trip intensive uses focussed on town centres;
- c) a balance of land uses that helps achieve sustainable development;
- d) accelerated rates of business development in the regeneration priority areas;
- e) appropriate development at Blackpool airport, ports and regional investment sites;
- f) urban regeneration, including priority re-use or conversion of existing buildings, and then use of brownfield sites;
- g) enhanced roles for town centres as development locations and public transport hubs;
- h) rural regeneration;
- i) a high quality built environment.

Other development to meet an identified local need or support rural regeneration outside principal urban areas, main towns, key service centres (market towns) and strategic locations for development will be acceptable in principle.

Policy 2 (Main Development Locations) of the Joint Lancashire Structure Plan states that,

Development in the following main towns will be at levels sufficient

To support:

- (a) their role as key centres for public transport, employment and services; and/or
- (b) their regeneration role within regeneration priority areas.

Rawtenstall (including Bacup and Haslingden)

Policy 4 (Development in Lancashire's key service centres (market towns) of the Joint Lancashire Structure Plan states that

Development in the following key service centres (market towns) will be sufficient to promote their regeneration and support and enhance their role as service centres and public transport hubs for the surrounding villages and rural areas. The scale of development will be appropriate to the size of the town and will include development for diversification of the rural economy and development of public transport infrastructure.

Policy 12 (Housing Provision) states that provision will be made for the construction of 1920 dwellings within the Borough within the plan period (2001-2016) 220 per year between 2001 and 2006 and 80 per year between 2006 and 2016.

Policy 13 (Housing Renewal) of the Joint Lancashire Structure Plan states that Measures to improve the existing housing stock will be targeted towards the principal urban areas and main towns.

Across East Lancashire, 25,000 unfit dwellings will be refurbished or demolished by 2016.

Clearance will be undertaken where retention is not economically viable due to stock condition or low demand or where it assists the wider regeneration of an area.

Replacement dwellings are in addition to those in policy 12. Priority will be given to using previously developed land and buildings, whilst allowing for the creation of green space networks, other open space and woodland areas, and local employment and community uses.

Policy 20 (Lancashire's Landscapes) of the Joint Lancashire Structure Plan states that 'Development must be appropriate to the landscape character type within which it is situated and contribute to its conservation, enhancement or restoration or the creation of appropriate new features.

In areas of outstanding natural beauty, priority will be given to conservation and enhancement of landscape character. Development must contribute to the conservation of the natural beauty of the area of outstanding natural beauty.

Proposals will be assessed in relation to:

- (a) local distinctiveness;
- (b) the condition of the Landscape;
- (c) visual intrusion;
- (d) the layout and scale of buildings and designed spaces;
- (e) the quality and character of the built fabric;
- (f) public access and community value of the landscape;
- (g) historic patterns and attributes of the landscape;
- (h) landscape biodiversity and ecological networks;
- (i) semi-natural habitats characteristic of the landscape type;
- (j) remoteness and tranquillity;
- (k) noise and light pollution.

Policy 21 (Lancashire's natural and manmade heritage) of the Joint Lancashire Structure Plan states that Lancashire's natural and manmade heritage will be protected from loss or damage according to the hierarchy of designations of international, national, regional, county and local importance. The strongest levels of protection will be afforded to those heritage resources of international and national importance.

Sites, areas, features and species of heritage importance will be conserved and, in appropriate circumstances, enhanced and be established taking account of:

- (a) their rarity, vulnerability, antiquity or complexity;
- (b) their contribution to the countywide network of sites and features, to the character of its location and setting and to national and county biodiversity and the likely implications of climate change on heritage assets;
- (c) positive opportunities afforded by development for the conservation, management or enhancement of heritage resources. Where, in exceptional circumstances, unavoidable loss or damage to a site or feature or its setting is likely as a result of a proposed development, measures of mitigation and compensation will be required to ensure there is, as a minimum, no net loss of heritage value. Such measures may include the creation of appropriate new heritage resources, on or off-site

Other Material Planning Considerations

PPS1 (General Policy and principles)

Government guidance in the form of PPG1 emphasises that development should be sustainable and states that there is a need to achieve a balance between promoting economic prosperity and protecting the natural and built environment. It also

identifies ways in which mixed use development can be promoted, and provides advice on design matters.

Paragraph 7 states that “Urban regeneration and re-use of previously- developed land are important supporting objectives for creating a more sustainable pattern of development. The Government is committed to:

- a) concentrating development for uses which generate a large number of trips in places well served by public transport, especially in town centres, rather than in out of centre locations; and
- b) preferring the development of land within urban areas, particularly on previously-developed sites, provided that this creates or maintains a good living environment, before considering the development of Greenfield sites.”

PPS7 (Sustainable development in rural areas)

PPS7: The Key Principles of the PPS are as follows:

a) Decisions on development proposals should be based on sustainable development principles, ensuring an integrated approach to the consideration of:

- Social inclusion, recognising the needs of everyone;
- Effective protection and enhancement of the environment;
- Prudent use of natural resources; and
- Maintaining high and stable levels of economic growth and employment

b) Accessibility should be a key consideration in all development decisions. Most developments which are likely to generate large numbers of trips should be located in or next to towns or other service centres that are accessible by public transport, walking and cycling, in line with the policies set out in PPG13, Transport. Decisions on the location of other developments in rural areas should, where possible, give people the greatest opportunity to access them by public transport, walking and cycling, consistent with achieving the primary purpose of the development.

c) New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the Government’s overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all.

d) All development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

PPS7: The Government’s policy is to support the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. Re-use for economic development purposes will usually be preferable, but residential conversions may be more appropriate in some locations, and for some types of building. Policies regarding the re-use of rural buildings should take into consideration:

- the potential impact on the countryside and landscapes and wildlife;
- specific local economic and social needs and opportunities;
- settlement patterns and accessibility to service centres, markets and housing
- the suitability of different types of buildings, and of different scales, for re-use;

- the need to preserve, or the desirability of preserving, buildings of historic or architectural importance or interest, or which otherwise contribute to local character.

PPG3 (Housing)

Government guidance in the form of PPG 3 (Housing) states that sites for housing should be assessed against a number of criteria namely the availability of previously-developed sites, location and accessibility, capacity of existing and potential infrastructure, ability to build communities and the physical and environmental constraints on development of land.

Paragraph 22 states that *“The Government is committed to maximizing the re-use of previously-developed land...in order both to promote regeneration and minimize the amount of greenfield land being taken for development”*.

Paragraph 31 highlights the importance of the location and accessibility of housing sites to jobs, shops and services by modes of transport other than the car.

PPG13 (Transport)

Government guidance in the form of PPG13 states in paragraph 19 that *“A key objective is to ensure that jobs, shopping, leisure facilities and services are accessible by public transport, walking and cycling.”*

Planning Issues

Principle/Land Use Issues

The site is outside the defined urban boundary of the Rossendale District Local Plan (1995) and is a greenfield site. The proposal represents a major departure from the adopted development plan : the Rossendale District Local Plan and is contrary to the provisions and policies of the Joint Lancashire Structure Plan 2001-2016 and would require to be referred to the Secretary of State in the event of the Council being minded to grant planning permission.

Housing Supply

One issue associated with this application is whether there is a requirement for new housing in the borough based on the figures in the Joint Lancashire Structure Plan (2001-2016). Total housing completions between 1991 and September 2003 amounted to 1,983 dwellings, leaving a residual provision of 517 dwellings to be completed by 2006 based on the 2,500 figure in the adopted Structure Plan. The Replacement Structure Plan specifies an annual average dwelling provision in the period 2001 to 2006 equivalent to 1,090 dwellings. Total housing completions 2001-September 2003 amounted to 431 dwellings. At the 1 April 2003 there were existing planning permissions for 1,606 dwellings. Therefore the County Planning Officer has concluded that there are sufficient residential planning permissions to meet Rossendale Borough Council’s housing requirement to 2006 and that the proposed development would be contrary to Policy 12 of the Joint Lancashire Structure Plan (2001-2016).

Planning Approval 1975/605

It is acknowledged that an extant (valid) planning permission exists on the site for 190 dwellings granted in 1976 and for which a Court Order has previously been issued in 1995 confirming that a commencement of development took place within the life of the permission. It remains valid and capable of implementation and its existence and status is therefore a significant material consideration.

The County Planning Authority recognises the planning permission status of the site but requested consideration of issues relating to ecology, landscape and transport.

Design/Layout

The proposed development has certain distinct advantages over its 1975 predecessor permission. These relate principally to the introduction of a less formal layout both in terms of internal highway layout and the adoption of more varied housetypes and plot/dwelling positioning. The principal improvement however is the adoption of a proper frontage treatment and orientation of properties to Rochdale Road. The 1975 permission presented the rear elevations and gardens of properties to Rochdale Road, whereas the current proposal provides both a road frontage landscape treatment and frontal orientation of properties to Rochdale Road. Nevertheless the development of this site on an elevated west facing slope looking down the main Rossendale Valley will have a significant physical impact.

Materials

The applicants, who have entered into a license with the site owner to undertake the development have maintained their intention to use brick as the predominant facing material. This represents no substantive change from the 1975 consent and negotiations on this matter have not persuaded the applicant to agree to the use of stone or a good quality substitute.

Highways/Transportation/Accessibility

The County Planning Authority consider that the site is rated good in terms of accessibility though a contribution of £20,000 towards upgrading the nearest two bus stops is recommended. The applicants have agreed to offer such a sum by means of a Section 106 unilateral undertaking. The highway authority whilst raising no objections in principle have requested that the developer be required to contribute the sum of £300 per dwelling to the public transport infrastructure of the area. This is equivalent to £55,200 and would be required to be secured by a Section 106 Planning Obligation.

Landscape/Ecology

The proposed development has distinct advantages over its extant predecessor in that appropriate provision is made within the development for public open space which the developer is proposing to privately manage thereby obviating the need to offer up the land for adoptive maintenance by the Local Authority. The provision is considered to be acceptable in terms of scale and location within the development.

The county ecologist has identified three significant issues for which conditional control is recommended. They are assessment and protection of an active Badger set that lies within and toward the edge of the site. The use of indigenous species of

plants and trees in any structural planting of the open spaces and gardens of the development, and protection during the nesting season of ground nesting birds that may inhabit the site and which will otherwise suffer disturbance during construction and ultimately loss of habitat. Additionally the presence on site of Japanese Knotweed, an invasive species of non-indigenous plant requires eradication.

Issues arising from Public Consultation

A substantial number of objections have been received to the proposal that raise issues of principal as well as detail which are addressed as follows:

The plan designation of the site is acknowledged.

The site is accepted as Greenfield.

Traffic impact is considered to be within acceptable limits.

The site provides for appropriate public open space provision

The extant consent can be built out of brick, and negotiations have failed to secure a change of materials in the new proposal.

Ecological impacts can be conditioned and to a degree ameliorated.

United Utilities have raised no in-principle objection on sewerage capacity grounds.

It is accepted that the proposal runs contrary to current planning policy.

Whilst no renewable energy benefits will accrue from the development the proposed dwellings would comply in all respects in terms of energy efficiency, and the developer is seeking a "Good" eco-homes rating.

It is accepted that the development of this site does not accord with the Housing Market Renewal Strategy and is not identified in the draft proposals of Bacup and Stacksteads Master Plan as a suitable site to direct new housing provision for the town.

It is also accepted that the development will have an impact on current social infrastructure provision such as schools etc. However the extant permission would have a similar impact if built.

Conclusion

The options available to the Planning Authority appear to be of a stark nature. On the one hand the developer has entered into a legally binding agreement to develop the site. That agreement was doubtless reached on the basis of the fallback position of extant planning permission 1975/605. The applicants has openly declared that if planning permission were to be refused for the current revised proposal they would proceed to build the 1975 permission which is inferior in many respects to the current proposal. On 1st June a re-commencement of development took place on the back of the 1975 permission.

On the other hand the current proposal is contrary to the provisions of the development plan (both recently approved Structure Plan for Lancashire and the 1995 Rossendale District Local Plan). The site is outside the urban boundary and is a greenfield site that should not otherwise be coming forward for development before other more sustainable brown field sites in the locality.

On balance it is considered that the extant permission constitutes such a significant material consideration that it must inevitably influence any measured consideration of the current proposal. Notwithstanding the development plan provisions which clearly indicate that this site does not fall within the urban envelope and is not identified as a site for housing development the fact remains that a 29 year old planning permission remains valid and capable of implementation and a re-

commencement of that development has already occurred. The relative advantages in both design and environmental terms of the current proposal over its predecessor are considered to be sufficient to justify support of the proposal subject to referral under the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999 being development not being in accord with the provisions of the development plan and residential development of more than 150 dwellings.

Recommendation

1. That Committee resolve to be minded to grant planning permission but since the approval of the application would constitute a departure from Policies 1,2, and 12 of the Joint Lancashire Structure Plan and policies DS.2 and DS.5 of the Rossendale District Local Plan and that accordingly the application should be referred to Government Office for the North West in accordance with the provisions of Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999.
2. That subject to any decision of the Secretary of State, the Council enter into an agreement under Section 106 of the Town and Country Planning Act 1990 with the developer who will be required to contribute the sum of £300 per dwelling to the public transport infrastructure in the area in order to promote the sustainable transport options available to the residents of the development and that the Team Manager Development Control be authorised to approve the said application, subject to the conditions set out below and on completion of such Section 106 Agreement.

Reasons for conditional approval

The proposed residential development of this site in the manner proposed, whilst contrary to the provisions of the development plan, presents significant improvements in terms of design, layout and landscaping/public open space provision over extant planning permission 1975/605 such that to deny planning permission would inevitably result in the continuation of the re-commenced aforesaid extant permission to the comparative detriment of visual amenity, and transport infrastructure provision.

Conditions

1. The development permitted shall be begun before the expiration of five years from the date of this permission. Reason:- The condition is required by virtue of Section 91 of the Town and Country Planning Act 1990.
2. Development shall not commence until full details, including representative samples, of the external facing materials to be used in the construction of the dwellings have been submitted to and first approved in writing by the Local Planning Authority. The approved materials shall thereafter be used in the construction of the development. Reason:- In order to ensure the satisfactory appearance of the development in accordance with policies DC.1 and DC.4 of the Rossendale District Local Plan.
3. Any construction works associated with the development hereby approved shall not take place except between the hours of 7:00am and 7:00pm Monday to Friday and 8:00am to 1:00pm 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.

4. Notwithstanding the submitted details no development shall take place until there has been submitted to and approved by the Local Planning Authority a revised scheme of landscaping which shall include indications of all existing trees and hedgerows on the land, details of any to be retained, together with measures for their protection in the course of development.
Reason: In the interests of visual amenity having regard to Policy DC1 of the Rossendale District Local Plan
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
Reason: In the interests of residential amenity and in accordance with policy DC.1 of the Rossendale District Local Plan.
6. No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.
Reason: To ensure a satisfactory means of drainage in accordance with policy DC.1 of the Rossendale District Local Plan.
7. No development approved by this permission shall be commenced until a detailed scheme for the defined areas of public open space has been submitted to and approved by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved details.
Reason: In the interests of visual amenity having regard to Policy DC1 of the Rossendale District Local Plan.
8. Before the development is commenced and during the course of the construction period , temporary protective metal fencing shall be erected along Sheephouse Clough. Details of the type of protective fencing to be used shall be submitted to and approved by the local planning authority before it is erected.
Reason:- To protect Sheephouse Clough and prevent debris and construction material encroaching into this area
9. No development approved by this permission shall be commenced until a desk study has been undertaken and agreed in writing by the Local Planning Authority to investigate and produce an assessment of the risk of the potential for on-site contamination. If the desk study identifies potential contamination a detailed site investigation should be carried out to establish the degree and nature of the contamination and its potential to pollute the environment or to cause harm to human health. If remediation measures are necessary they shall be implemented in accordance with the assessment and to the satisfaction of the Local Planning Authority.
Reason:- To ensure a safe form of development that poses no unacceptable risk of pollution.
10. No development approved by this permission shall be commenced until a scheme for the provision and implementation of a surface water regulation system has been approved by the local planning authority. The scheme shall be completed in accordance with approved plans.
Reason: To reduce the increased risk of flooding having regard to PPG 25

11. No part of the development hereby approved shall commence until a scheme for the construction of the site access and the off-site works of highway improvement has been submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.
Reason:- In order to satisfy the Local Planning Authority and Highway Authority that the final details of the highway scheme/works are acceptable before work commences on site.
12. No part of the development hereby approved shall be occupied until the approved scheme referred to in condition 11 has been constructed and completed in accordance with the scheme details. Reason: In order that the traffic generated by the development does not exacerbate unsatisfactory highway conditions in advance of the completion of the highway/scheme/works.
13. No part of the development hereby approved shall commence until there has been submitted to and approved by the local planning authority a detailed method statement demonstrating how the potentially adverse impacts of the development upon badgers and their setts will be avoided.
Reason:- An active badger sett is situated within the application site.

Note: This development will require the diversion of Public Footpath No. 445 in accordance with Section 119 of the Highways Act 1980

