

<b>Application No:</b> 2010/557	<b>Application Type:</b> Full
<b>Proposal:</b> To extend the time limit by which implementation of Planning Permission 2006/553 must commence (for erection of 11 dwellings)	<b>Location:</b> Anvil Street, Stacksteads, Bacup
<b>Report of:</b> Planning Unit Manager	<b>Status:</b> For Publication
<b>Report to:</b> Development Control	<b>Date:</b> 17 January 2011
<b>Applicant:</b> B & E Boys	<b>Determination Expiry Date:</b> 19 January 2011
<b>Agent:</b>	

<b>REASON FOR REPORTING</b>	<b>Tick Box</b>
<b>Member Call-In</b>	<b>No</b>
Name of Member:	
Reason for Call-In:	
<b>3 or more objections received</b>	<b>No</b>
<b>Other</b> (please state) .....	<b>MAJOR</b>

**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.

**1. BACKGROUND**

This application relates to a site for which Permission for the erection of 11 dwellings was granted by Committee in 2007.

## **2. SITE**

The application relates to a rectangular site of approx 0.2ha, which is located to the other side of Newchurch Road (A681) to the premises of Ormerods. Anvil Street is a narrow and un-made/un-adopted access, reached from Newchurch Road via Rushton Street, or one of three other short un-made/unadopted accesses.

The eastern half of the site is occupied by commercial buildings (of 380 sq m floor-area), comprising of 2-storey stone buildings on the frontage of Anvil Street, with more modern additions to the rear. The western half of the site is more open in character. This unkempt area of sloping land is largely hidden from view from Anvil Street by a high stone wall, but contains within it a number of mature trees and bushes.

Whilst 121-123 Newchurch Road is occupied by Lea Mill Furnishings, the properties surrounding the site are otherwise in residential use. There are terraced houses to the south and west of the site. Running along the eastern boundary of the site is a public footpath, a lighting column for the illumination of its upper part located on the application site. The application site does not impinge greatly upon the outlook of the more modern houses to the north (fronting Fernhill Way and Fernhill Park) due to their elevation above the level of Anvil Street by more than 15m.

## **3. RELEVANT PLANNING HISTORY**

2005/535 Demolition of existing buildings and erection of two terraces (of 11 houses)  
In accordance with the Officer Recommendation, this application was refused by Committee at its meeting on 6 December 2005.

2006/533 Demolition of existing buildings and erection of two terraces (of 11 houses)  
This re-submission of the earlier application was accompanied by amended drawings.

In accordance with the Officer Recommendation, this application was approved by Committee at its meeting on 24 July 2007, subject to Conditions and a S.106 Obligation first being entered into to ensure :

- provision of 2 of the proposed dwellings as affordable units; &
- payment of £11,000 towards off-site open space provision (with up-rating for inflation).

The Legal Agreement was duly entered into and the decision notice was issued on 29 October 2007.

Implementation of the approved scheme would result in two terraces, one to contain five houses and the other six, each of the houses to :

- have three bedrooms and an integral garage fronted by a drive taking access from Anvil Street.
- appear 3-storey as viewed from Anvil Street and of 2-storey as viewed from the rear.

- be constructed of artificial stone, with grey tiled roof.
- have a rear garden that rises up in a series of terraces, with no gate in the 1.8m high fence giving access out onto Fernhill Way / Fernhill Park.

The approved scheme also provided for various off-site works:

- both Rushton Street and that part of Anvil Street extending to its east side to be improved (and, in the case of the latter, widened where fronting the application site), to accord with the wishes of the Highway Authority.
- enhancement of the quality/appearance of other accesses, including :
  - a) improvement to the appearance of that length of Anvil Street lying to the west side of Rushton Street;
  - b) re-surfacing of the carriageway of Back Rushton Street; &
  - c) refurbishment of the public footpath running to the east side of the site (most particularly improvement of its lighting and reconfiguration of the steps/replacement of the hand-rail at its southern end).

Condition 1 of the Permission reads as follows:

*“The development hereby permitted shall be begun before the expiration of three years from the date of this permission.”*

#### **4. PROPOSAL**

Recognising that it would not wish to commence implementation of Permission 2006/533 in accordance with the timescale referred to in Condition 1, the Applicant has submitted the current application seeking to vary it.

#### **5. POLICY CONTEXT**

The Proposals Map of the Rossendale District Local Plan, adopted in April 1995, shows the site to be within the Urban Boundary of Bacup. There is no site-specific allocation in the Local Plan relating to the site.

When Application 2006/533 was considered by Committee in July 2007 Development Plan policy in respect of Housing was to be found in Policy 12 of the Joint Lancashire Structure Plan (adopted in 2005), Policy 3 of the Local Plan having been determined not to accord with Policy 12.

In September 2008 the Joint Lancashire Structure Plan was replaced by the Regional Spatial Strategy, and increased the annualised housing allocation for the Borough from 80 to 222, in accordance with the Council’s wishes. The Council’s Interim Housing Policy Statement of July 2008 reflected this increase in the housing allocation.

The Interim Housing Policy Statement was most recently reviewed and amended in May 2010, to take on-board the latest information the Council possessed in relation to housing land availability and housing needs across the borough. At the meeting of Full Council in December 2010 the form in which the Core Strategy DPD should be submitted to Central Government was approved and continues to propose an annualised housing allocation of 222 dwellings.

Accordingly, the policy context in which the current application should be assessed is as follows:

**National**

- PPS1 Sustainable Development
- PPS3 Housing
- PPS4 Economic Growth
- PPS9 Biodiversity & Geological Conservation
- PPG13 Transport
- PPG14 Unstable Land
- PPG17 Sport & Recreation
- PPS23 Pollution Control
- PPG24 Noise

**Development Plan Policies**

Regional Spatial Strategy for the NW (2008)

- DP1-9 Spatial Principles
- RDF1 Spatial Priorities
- L1 Health, Sport, Recreation, Cultural & Education Services Provision
- RT2 Managing Travel Demand
- RT4 Management of the Highway Network
- EM1 Environmental Assets

Rossendale District Local Plan (1995)

- DS1 Urban Boundary
- DC1 Development Criteria
- DC3 Public Open Space
- DC4 Materials
- E4 Tree Preservation
- E6 Ground Instability
- E7 Contaminated Land

**Other Material Planning Considerations**

- LCC Planning Obligations in Lancashire (2008)
- RBC Submitted Core Strategy (2010)
- RBC Interim Housing Policy Statement (2010)
- RBC Strategic Housing Land Availability Assessment (2009)
- RBC Strategic Housing Market Assessment (2009)
- RBC Affordable Housing Economic Viability Assessment (2010)
- RBC Open Space & Play Equipment Contributions SPD (2008)

**6. CONSULTATION RESPONSES**

None.

## **7. NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order the application has been publicised by way of a newspaper notice on 5/11/10, site notices posted on 3/11/10 and letters sent to the relevant neighbours on 2/11/10.

No comments have been received.

## **8. ASSESSMENT**

In order that Local Planning Authorities could better plan, manage and monitor development the Planning & Compulsory Purchase Act 2004 amended Section 91 of the Town & Country Planning Act 1990 so as to reduce the duration of Planning Permissions generally granted from 5 years to 3 years.

In light of the present economic downturn, on 1 October 2009 an amendment to the Town & Country Planning (General Procedure) Order came in to force enabling an application to be submitted seeking a time extension in respect of a permission granted before this date and which had not lapsed at the time of the new submission.

In short, this temporary measure is a mechanism for extending the date at which a scheme previously-permitted has to be commenced, and not a means by which an applicant can seek to amend a scheme.

Government guidance makes it clear that the Council is not bound to grant approval to such an application:

*“This process is not a rubber stamp. LPAs may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably”.*

In light of the increased annualised housing allocation and desire for a greater proportion of new housing to be on previously-developed land arising from replacement of the Housing policy of the Joint Lancashire Structure Plan with that of the RSS, and in the Council’s own Interim Housing Policy Statement and Submitted Core Strategy, I am satisfied that there is now a stronger case for permitting the residential development of this site than when Committee considered Application 2006/533 in July 2007 and determined that permission should be granted.

Accordingly, it is considered appropriate in principle to extend the date by which the development must be commenced to 5 years calculated from the date of issue of Permission 2006/533 (ie before 29 October 2012).

The resulting development is still considered necessary to secure regeneration of a derelict/brownfield site located within one of the Council’s Regeneration Priority Areas. It remains unsuitable for redevelopment for employment purposes having regard to its residential neighbours/access arrangements. Nor will implementation of the previously approved scheme now detract to any greater extent from visual and neighbour

amenity, in terms of highway safety or in respect of any other material planning consideration.

Having regard to the economic downturn, and date by which the development must commence, I do not consider it necessary or appropriate to seek to vary the requirements of the S.106 Obligations previously entered into.

### **9. SUMMARY REASON FOR APPROVAL**

The proposed development is appropriate in principle in the Urban Boundary of Bacup (one of the Council's identified Regeneration Priority Areas) and will secure the regeneration of a derelict/brownfield site no longer in employment use or suitable for re-development for employment purposes having regard to its residential neighbours/access arrangements. Furthermore, subject to the Conditions and accompanying S.106 Obligation, the resulting development will go some way towards meeting the local need for affordable housing and would not detract to an unacceptable extent from visual and neighbour amenity, highway safety or in respect of any other material planning consideration.

### **10. RECOMMENDATION**

That Permission be granted subject to:

- the S.106 Obligation requirements associated with Permission 2006/533 (up-rated for inflation)
- the Conditions of Permission 2006/533 (with amendment of the date for commencement referred to in Condition 1), which shall read as follows :
  1. The development hereby permitted shall be begun before 29 October 2012.  
*Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.*
  2. No development approved by this permission shall be commenced until a scheme for the disposal of foul and surface waters has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans prior to first occupation of any of the dwellings hereby permitted, unless otherwise first agreed in writing by the Local Planning Authority.  
*Reason: To ensure a satisfactory means of drainage, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*
  3. The development hereby permitted shall only be carried out in conformity with the proposed ground and building slab levels shown on the approved drawings in respect of Planning Permission 2006/533, unless otherwise first agreed in writing by the Local Planning Authority.  
*Reason: To protect the appearance of the locality and in the interests of the amenities of local residents, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*

4. The development hereby permitted shall not commence until full details of the colour, form and texture of all external facing materials to the proposed buildings have been submitted to and approved in writing by the Local Planning Authority, notwithstanding any details shown on the previously submitted plans and specification. The development shall only be carried out using the approved external facing materials.  
*Reason: To protect the appearance of the locality and in the interests of the amenities of local residents, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*
5. No development shall take place until a scheme of landscaping/boundary treatment has been submitted to and approved in writing by the Local Planning Authority, notwithstanding any such detail which may have previously been submitted. The submitted scheme shall provide details of the protection to be afforded during construction to planting to be retained and of the types and numbers of trees and shrubs to be planted, their distribution on site, those areas to be seeded, paved or hard landscaped; and detail any changes of ground level or landform.  
*Reason : To protect the appearance of the locality and in the interests of the amenities of local residents, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*
6. All hard-surfaced areas/walls/fences/gates forming part of the approved scheme of landscaping/boundary treatment shall be completed prior to occupation of the nearest building, unless otherwise agreed in writing with the Local Planning Authority. All new planting, seeding or turfing forming part of the approved scheme of landscaping/boundary treatment shall be carried out in the first planting and seeding seasons following substantial completion of the nearest dwelling. Any trees or plants in the approved scheme which within a period of 5 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 : To protect the appearance of the locality and in the interests of the amenities of local residents, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*
7. The vehicle parking and manoeuvring areas, and garages, indicated on the approved drawings shall be provided prior to first occupation of the dwellings to which they relate. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or any order amending or revoking and re-enacting that order, these vehicle parking and manoeuvring areas, and garages, shall thereafter be kept freely available for use by vehicles.  
*Reason : To ensure adequate garaging/off street parking provision is made/maintained, thereby avoiding the inconvenience/hazards caused by on-street parking, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*
8. Prior to the commencement of development full details/specifications shall

be submitted to and approved in writing by the Local Planning Authority in respect of works to :

- a. improve the carriageway/footways/illumination of both Rushton Street and that part of Anvil Street extending to its east side.
- b. enhance the quality/appearance of other accesses immediately vicinity of the site, to include: the surface finish and illumination of that length of Anvil Street lying to the west side of Rushton Street; re-surfacing of the carriageway of Back Rushton Street; & refurbishment of the public footpath running to the east side of the site, entailing most particularly improvement of its lighting and reconfiguration of the steps/replacement of the hand-rail at its southern end.

The approved scheme shall be fully implemented prior to first occupation of any of the proposed dwellings, unless otherwise first agreed in writing by the Local Planning Authority.

*Reason : In the interests of highway/pedestrian safety and to ensure the proposal will positively contribute to the regeneration of this part of the Council's identified Regeneration Priority Area, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*

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

*Reason: For the avoidance of doubt and to accord with Policy DC1 of the adopted Rossendale District Local Plan.*

10. Prior to the development commencing:

- a. A contaminated land Phase I report to assess the actual/potential contamination risks at the site shall be submitted to, and approved in writing by, the Local Planning Authority (LPA).
- b. Should the Phase 1 report recommend that a Phase II investigation is required, a Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the LPA.
- c. Should the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted to, and approved in writing by, the LPA. The remedial scheme in the approved Remediation Statement shall then be carried out in accordance with approved details.
- d. Should remediation be required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works including validation works shall be submitted to, and approved in writing by the LPA prior to the first use or occupation of that part of the development hereby approved.

*Reason : To ensure the site is suitable for its end use and the wider environment and does not create undue risks to site users or neighbours during the course of the development, to accord with Policy E7 of the adopted Rossendale District Local Plan.*



11. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (Schedule 2, Part 2), or any Order amending or revoking and re-enacting that Order, no pedestrian or vehicular access to Fernhill Park or Fernhill Way shall be formed or allowed to remain.

*Reason : To reduce the likelihood of vehicles associated with the dwellings hereby permitted parking on Fernhill Park or Fernhill Way, and thereby obstructing access to existing properties served by these highways, in accordance with Policy DC1 of the adopted Rossendale District Local Plan.*

<b>Contact Officer</b>	
Name	N Birtles
Position	Principal Planning Officer
Service / Team	Development Control
Telephone	01706-238642
Email address	planning@rossendalebc.gov.uk