

TITLE: PLANNING APPEAL RESULT – 2004/651 - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT At LAND BETWEEN MANCHESTER ROAD & LANESIDE ROAD, HASLINGDEN

TO/ON: DEVELOPMENT CONTROL COMMITTEE WEDNESDAY 08 MARCH 2006

BY: DIANE DUNGWORTH

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 2004/651 – This planning application was received on 27 August 2004 and related to an Outline application for Residential Development

3.2 The application was refused on 08 June 2005 for the following reasons:

The proposed development is not currently required to meet the housing requirements of the Borough. The proposal is therefore considered to be contrary to the provisions of policy 43 of the Lancashire Structure Plan 1991 – 2006 and policy 12 of the Proposed Changes (Deposit Edition) Joint Lancashire Structure Plan 2001 – 2016.

This resulted in an appeal being lodged and being dealt with by the written procedure. The appeal was allowed for the reasons given in the

decision letter of the Planning Inspectorate, a copy of which is attached to this report.

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. N/A

8. EQUALITIES ISSUES ARISING FROM THE REPORT

8.1 N/A

9. WARDS AFFECTED

Greenfield

10. CONSULTATIONS

10.1 The appeal was advertised by individual letters to all parties that were consulted on the planning application.

11. Background documents:

11.1 Appeal decision letter

For further information on the details of this report, please contact: Brian Sheasby on 01706 244582.



Appeal Decision

Site visit made on 22 November 2005

by **Jean Russell MA MRTPI**

an Inspector appointed by the First Secretary of State

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Date

Appeal Ref: APP/B2355/A/05/1187023

Land between Manchester Road & Laneside Road, Helmshore, Rossendale BB4 6PU

- 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 Staples & Mrs Sweeney against the decision of Rossendale Borough Council.
- The application (ref: 2004/651), dated 12 August 2004, was refused by notice dated 8 June 2005.
- The development proposed is change of use of existing garage site into residential houses/apartments with car parking.

Summary of Decision: The appeal is allowed and outline planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

1. The planning application was submitted in outline with all matters reserved.

Main Issue

2. I consider that the main issue is the implications of the proposed development for the managed supply of housing land in the Borough.

Planning Policy

3. The development plan includes the 2003 *Regional Planning Guidance for the North West* (now the *Regional Spatial Strategy, RSS*), the 2005 *Joint Lancashire Structure Plan 2001-2016* (SP) and the 1995 *Rossendale District Local Plan* (LP). The SP supersedes the *Lancashire Structure Plan 1991-2006*, which was in force when the planning application was determined. I consider the following development plan policies relevant to the appeal.
4. RSS Policy UR1 identifies the sustainable regeneration of urban areas as a regional priority and promotes an urban renaissance by, amongst other matters, tackling low demand for housing and poor physical conditions. Policy UR4 prioritises the redevelopment of vacant sites and buildings within urban areas.
5. Policy UR7 requires local planning authorities (LPAs) to monitor and manage the availability of land to achieve annual rates of housing provision and in so doing minimise the amount of land needed for new housing. Policy UR8 requires land allocated for housing to be released in an orderly, managed manner using phasing mechanisms which, amongst other matters, are underpinned by housing capacity studies and secure the development of previously developed urban land as a first priority.
6. SP Policy I states that development will be located primarily in principal urban areas, main towns, market towns and strategic locations. It will contribute to achieving, amongst other

matters, the efficient use of buildings and land, high accessibility by walking, cycling and public transport; sustainable patterns of development; and urban regeneration. Policy 2 indicates that development in main towns will be at a level sufficient to support their roles as key centres for public transport, employment and services and their regeneration roles within Regeneration Priority Areas.

7. Policy 12 makes provision for an average of 220 new dwellings per year between 2001 and 2006, and 80 per year between 2006 and 2016, to provide a total of 1,920 new dwellings over the plan period. Priority is given to the re-use or conversion of existing buildings and then the use of previously developed land at the locations listed in Policy 2.
8. The RSS and SP policies described reflect Government guidance in *Planning Policy Guidance Note 3: Housing* (PPG3), which seeks to focus new housing development on previously developed urban land that is accessible by public transport, and which requires LPAs to adopt a “plan, monitor and manage” approach to housing provision.
9. The LP pre-dates the RSS, SP and PPG3. The structure planning authority, Lancashire County Council (LCC), has written to the Council stating that certain LP policies are not in general conformity with the SP. These policies include DS2 and H3 which pertain to housing location and supply. I understand that LP Policy DS1, however, requires most development to be located within urban areas. The Council issued a *Draft Interim Housing Policy* for public consultation in 2004 but this has not subsequently been adopted and I am not aware of the detailed reasons for this.

Reasons

10. The appeal site is a large backland plot. It was previously used as a garage colony, but only two built structures remain. The land is uneven and has become grassed over and tipped. It includes a few sparse trees but generally has a derelict appearance. The site is enclosed by residential development, including traditional terraced houses on Manchester Road and more modern dwellings by the quiet Laneside Road.
11. In my view, residential proposals in Rossendale must primarily be assessed with regard to the RSS and SP. The appellant has referred to the *Barker Report* and the Government’s responding statement of 18 July 2005, which seek to tackle housing shortages. However, neither of those publications implies that more homes are needed in every part of the country. The housing strategy in the SP is based, in my opinion, on a clear assessment of demographic change and housing needs in Lancashire. Paragraph 6.3.13 states that in most districts there are sufficient sites with residential planning permission to meet at least the short-term housing provision established by Policy 12. In such districts, I consider that it would be reasonable to restrict the supply of new housing, including windfalls, in keeping with the “plan, monitor and manage” approach.
12. In this case, however, the most recent housing figures for Rossendale are provided in the appeal statement from LCC, which suggests that 546 dwellings were completed between March 2001 and April 2004, and that permission had been granted for 1,168 dwellings at April 2004. These figures indicate that the provision of 1,100 dwellings in Rossendale for the period 2001-2006 set out in Policy 12 could easily be exceeded. I acknowledge that outward migration has affected housing needs in the Borough and I do not dispute the accuracy of the figures. Nevertheless, they are over a year out of date, contrary to the requirements of RSS Policy UR8 and page 51 of the SP for regular monitoring.

13. LCC has also stated that housing completion figures in Rossendale prior to 2004 fell below the annual average rates set out in Policy 12. This would suggest that insufficient planning permissions are being implemented to achieve the required housing provision, and cast doubt on the validity of the housing supply figures quoted above. LCC itself has suggested that if insufficient dwellings are completed, additional sites for housing may need to be approved. In this situation, I consider that the purported over-supply of housing in this Borough has not been proven conclusively.
14. Moreover, the proposed development is submitted in outline. The appellant indicates that the site could accommodate 6-10 houses, but the number and type of units would be agreed at the reserved matters stage. It is improbable, in my view, that the proposed development would be approved in detail, never mind completed, before April 2006 when the next SP period commences. I see no reason why the impact of the proposed development on the supply of housing could not be accommodated through monitoring and management in future years. PPG3 requires LPAs to make allowances for windfall schemes and provide sufficient sites for housing for at least 5 years ahead. Allowing the proposal could encourage similar proposals to come forward, but there is no compelling evidence that this would prejudice the Council's ability to manage the supply of housing.
15. There are other material considerations in favour of the proposed development. The site is under-used due to the decline of the garage business and crime. Paragraph 6.3.12 of the SP indicates that one of the key elements of the development strategy is to maximise the re-use of brownfield land. Notwithstanding the address given on the application forms, the appeal site lies within the town of Haslingden, approximately 1km south of its town centre. Haslingden is identified under SP Policy 2 as a main town and Regeneration Priority Area, and under LP Policy DS1 as an urban area for development. The site has an existing access to Manchester Road, which leads to the town centre, local shops, a supermarket and health and education facilities, and which forms part of a major bus route.
16. In my view, the proposed development would therefore represent sustainable re-use of urban brownfield land, and regenerate a neglected site in an area of need. According to PPG3 and the RSS and SP Policies cited, the site would be a priority location for development. LCC's appeal statement also emphasises the need to regenerate urban brownfield land. Without any substantive proof of an over-supply situation, I consider that the proposed development would strengthen the Council's ability to manage the supply of housing, by helping to promote an urban renaissance. The proposed development would comply with RSS Policies UR1, UR4, UR7 and UR8; SP Policies 1, 2 and 12; LP Policy DS1; and PPG3.
17. In reaching this conclusion, I have noted the other appeals, cited by both parties, which considered proposals for housing in relation to supply. Most of the cases concern other LPA areas, where the policy context and supply situation differ to those before me. In the appeal decision (ref: APP/B2355/A/04/1157856, dated 21 March 2005) pertaining to Rossendale, however, the Inspector found "no objective assessment to show a surplus of [residential] permissions". Since that decision was made, the Council do not appear to have updated their housing figures, yet have granted permission for various residential proposals. This adds weight to my view that there is insufficient evidence of an over-supply of housing to justify a refusal of outline planning permission in this case.

Conditions

18. I have assessed the conditions suggested by Council against the tests set out in *Circular 11/95: the Use of Conditions in Planning Permissions*. In addition to the standard conditions to be imposed on outline permissions, I shall restrict the hours during which construction works could take place, in order to protect nearby occupiers from unreasonable noise and disturbance. I consider that such a condition would be reasonable, although noise can be controlled under public health legislation, because the site is in proximity to a large number of dwellings and disturbance could occur without prior prevention.
19. The Council's committee report dated 4 November 2004 suggested a condition requiring the submission of a report assessing the risk of contamination of the site. Given its former use, I consider that such a condition would be reasonable and necessary. However, it would be unnecessary to impose a condition controlling materials, since external appearance is a reserved matter that would be considered by the Council with reference to LP Policy DC4.
20. The Council also suggested a condition requiring a minimum density of 30 dwellings per hectare. In my view, such a density (or one higher) should be expected, to accord with PPG3 and for the development to blend with its surroundings. However, the Highway Agency objects that the existing accesses to the site may not be suitable for high density housing and adjoining occupiers of this backland site are concerned to protect their privacy and light. I am concerned that the suggested condition could prove unreasonably restrictive in these circumstances.

Conclusion

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

Formal Decision

22. I allow the appeal and grant planning permission for change of use of existing garage site into residential houses/apartments with car parking at land between Manchester Road & Laneside Road, Helmshore, Rossendale BB4 6PU in accordance with the terms of the application (ref: 2004/651) dated 12 August 2004, and the plans submitted therewith, subject to the following conditions:
 - 1) Approval of the details of the siting, design and external appearance of the building[s], the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.
 - 2) Plans and particulars of the reserved matters referred to in condition 1 above, relating to the siting, design and external appearance of any buildings to be erected, the means of access to the site and the landscaping of the site, shall be submitted in writing to the local planning authority and shall be carried out as approved.
 - 3) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
 - 4) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

- 5) No construction works associated with the development hereby approved shall take place outside of the following hours: 08.00 – 18.00 Mondays – Fridays; 08.00 – 13.00 on Saturdays; and not at all on Sundays or Public Holidays.
- 6) Development shall not begin until a report to assess any contamination of the site has been submitted to and approved in writing by the local planning authority. The above report shall identify the extent of any contamination and the measures to be taken to avoid risk to the public when the site is developed. Development shall not commence until any measures approved in the report have been implemented.

Russell

INSPECTOR