

TITLE:	PLANNING APPEAL RESULT – 224 Burnley Road, Weir Bacup – Creation of a dropped kerb to allow vehicular access
TO/ON:	DEVELOPMENT CONTROL COMMITTEE WEDNESDAY 08 MARCH 2006
BY:	DIANE DUNGWORTH
LEAD MEMBER:	Councillor Challinor
STATUS:	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 2005/140 – This planning application was received on 07 March 2005 and related to the creation of a dropped kerb to allow vehicular access

3.2 The planning application was refused on 11 April 2005 for the following reasons:-

The proposal does not provide for vehicles to enter/leave in a forward gear consequently vehicles would be required to either reverse onto or from Burnley Road to the detriment of highway safety. For these reasons the proposal would not accord with Policy DC1 of the Rossendale District Local Plan.

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 appended 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

Greensclough

10. CONSULTATIONS

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

11. Background documents:

11.1 The appeal decision letter

For further information on the details of this report, please contact: Helen Longworth on 01706 244578



Appeal Decision

Site visit made on 17 October 2005

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

an Inspector appointed by the First Secretary of State

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Date

07 NOV 2005

Appeal Ref: APP/B2355/A/05/1185493

224 Burnley Road, Weir, Lancashire OL13 8QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Glenys Livesey against the decision of Rossendale Borough Council.
- The application (Ref 2005/140), dated 2 March 2005, was refused by notice dated 11 April 2005.
- The development proposed is a dropped kerb for vehicular access to property.

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

Procedural Matter

1. A similar application (Ref 2004/5740) by the occupant of the adjacent property, No 226 Burnley Road, was refused due to unacceptability in highway safety terms.

Main Issue

2. The main issue is the effect of the proposal on highway safety along Burnley Road.

Planning Policy

3. The development plan includes the Rossendale District Local Plan (RDLP) 1995. Policy DC1 sets out criteria for determining planning applications, including the proposal's relationship to the road network, and car parking provision.

Reasons

4. The appeal site is a terraced dwelling fronting the A 671 Burnley Road. It has a long and narrow front amenity area, providing parking space for a car, without turning facilities. Consequently, to use this space, a vehicle would either have to reverse into it or reverse out of it.
5. The A 671 is a single carriageway road with no parking restrictions in the vicinity. It is relatively quiet along this section. On my site visit I noted that many of the properties along this stretch of road have dropped kerbs, and some of them do not have turning areas. The appellant gives evidence of nearly half of the properties in Weir having dropped kerbs, about 80% of which apparently do not have a turning space. This has not been challenged.
6. Whilst reversing onto or off the public highway is undesirable, the alternative would be for the applicant to park her vehicle on the road. In my opinion this would obstruct the carriageway, creating a greater danger, particularly during inclement weather conditions,

when visibility is poor. Consequently, I take the view that highway safety would be improved by encouraging off-street parking and allowing the dropped kerb.

7. I am reinforced in my view by the absence of evidence relating to accidents caused by vehicles reversing into or out of other nearby properties with dropped kerbs. This suggests to me that the highway safety problems, feared by the Council, would not be any greater than at present.
8. Whilst the Local Transport Authority suggest that a shared driveway be created with the adjoining property, to provide a turning space, this would result in an unreasonable and unnecessary sacrifice of property rights.
9. For the above reasons I find that the proposal would not have a harmful effect on highway safety along Burnley Road and that it complies with Policy DC1 of the RDLP.

Conditions

10. I have considered the condition suggested by the Council and the advice in Circular 11/95. I agree with the Council that, in order to comply with Statute, a five year time limit should be placed on this proposed development.

Conclusions

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

Formal Decision

12. I allow the appeal and grant planning permission for a dropped kerb for vehicular access to property at 224 Burnley Road, Weir, Lancashire OL13 8QR in accordance with the terms of the application Ref 2005/140 dated 2 March 2005, and the plan submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of five years from the date of this decision.



INSPECTOR