

<b>Application Number:</b>	2016/0187	<b>Application Type:</b>	Full
<b>Proposal:</b>	Demolition of existing commercial premises and replacement with a live work unit	<b>Location:</b>	Unit 3 Shawclough Road Whitewell Bottom
<b>Report of:</b>	Planning Unit Manager		
<b>Report to:</b>	Development Control Committee	<b>Committee Date :</b>	28 <sup>th</sup> February 2017
<b>Applicant:</b>	Mr S Warburton	<b>Determination Expiry Date:</b>	25 <sup>th</sup> August 2016
<b>Agent:</b>	Mr S Hartley		

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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	<b>Cllr K Kempson</b> The applicant was given advice by the previous Planning Manager, which was taken. They were led to believe that by taking this advice it was sufficient for approval, but it is for refusal.
<b>3 or more objections received</b>	
<b>Other (please state):</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. RECOMMENDATION

That Permission is refused for the reasons set out in Section 9.

## 2. SITE

This application relates to an irregularly-shaped site, of approximately 0.1ha, to the north side of Shawclough Road. At this point the road has restricted forward-visibility due to an S-

bend, lack of a footway on its north side, a retaining wall bounding the highway to the west side of the access-point and planting to the east side of the access-point.

The site is presently occupied by a workshop building that sits towards the west end of the site frontage. It is elevated above the level of the highway by approximately 1.5m. Its walls and roof are clad with a combination of grey and green profiled metal sheeting. With a footprint measuring 9m x 11.5m, there are 2 elements to the building; that half nearer to the road of less height due to its mono-pitch roof, and that half furthest from the road of greater height due to its pitched-roof. It is backed by a stone retaining wall of approx. 1.5m in height which supports rising wooded land to the rear of the site.

Accordingly, the existing building is of modest visual impact. When approached along Shawclough Road from the west it is of less height/bulk than the industrial buildings first passed and of less strident appearance than them by reason of the subdued colour of the cladding materials. When approached along Shawclough Road from the east the curvature of the road and frontage planting limits the view the public has of it. Once it comes into view, it appears of modest size/subdued appearance, viewed against the backdrop of woodland on the rising land to the rear and goes some way towards hiding the red-brick of the adjacent commercial building.

The building has its principal entrances consisting of two bay doors in the east elevation, facing onto a parking/servicing area with access-point that joins the highway at an angle.

Not only is the open land to the north/south/east of the site in Countryside, so too is the application site and the commercial building immediately to the west. Larger/more modern industrial buildings further to the west are within the Urban Boundary.

### **3. Relevant Planning History**

2008/222      Replacement of Joiners Workshop with a Live-Work Unit  
Refused 30/5/08 & dismissed on Appeal 17/10/08

This application related to a site somewhat larger than the site of the current application as it included part of wooded land rising to the rear of the current site.

Permission was sought to replace the existing building with one of significantly greater footprint, bulk and height, and which was also to be split-level. The proposed building was to be of stone/grey concrete tile construction. Towards the south-west corner of the site was again be a workshop, to be of 8.5m x 13m, with mono-pitch roof; it was to make use of the existing vehicular access. Attached to the workshop, but with its front elevation setback 6m from the highway, was to be a 1-to-3-storey split-level house of four bedrooms. On its north side, attached to the upper storey of the house, was to be a double-garage taking access from the tarmacked drive to the rear. Construction of the double-garage, and area of hardstanding to front it, would have resulted in the loss of the shrub/tree cover on the bank to the rear of the current application.

The application was refused by the Council for the following reasons:

1. The proposed dwelling constitutes inappropriate development within the Countryside. Furthermore, the proposal as a whole will result in the site being occupied by a building of substantially greater bulk/height, with it and its associated hardstandings necessitating removal of a significant

proportion of the existing tree/shrub cover, and is thus harmful to the character and distinctiveness of the countryside. Accordingly, this development is contrary to PPS1 & PPS7, Policies 1, 5 & 20 of the adopted Joint Lancashire Structure Plan, and Policies of DS5 and the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

2. The dwelling would contribute towards an inappropriate excess in housing-supply provision, contrary to the provisions of PPS3, Policy 12 of the adopted Joint Lancashire Structure Plan and the Rossendale BC Interim Housing Policy Statement (December 2007). In this instance, the case has not been advanced to warrant an exception to policy being made.
3. The submitted drawings do not demonstrate the adequacy of the access and parking/servicing arrangements the proposed workshop is to be provided with. Accordingly, this development is not considered to accord with PPG13, the approved LCC Parking Standards and the criteria of Policy DC1 of the adopted Rossendale District Local Plan.

In dismissing the Appeal the Inspector concluded in respect of Issue 1:

*“I have already referred to PPS1 and PPS7 but I find no support in either of those documents for a proposal which would result in a significantly enlarged footprint over and above that of the existing building and the addition of a dwelling where one did not exist before outside the defined Urban Boundary. Although Planning Policy Guidance Note 4 – Industrial and Commercial Development and Small Firms is generally supportive of small scale employment generating developments this must be balanced by the impact that any particular proposal would have on interests of acknowledged importance. In this case I consider that the protection of the countryside from unnecessary development which would harm its intrinsic character and beauty, as identified under the Key Principles in PPS7, weighs heavily against the proposal.*

*Turning then to the matter of its effect on the character and appearance of the area, the proposed building would be larger and of greater bulk and height than the existing. Even though some of the mature trees on the site would be retained the elevation of the building and the loss of vegetation on the steep bank at the rear would result in significant change to the character of the site and the immediate area. The replacement building would be more prominent in its setting than the existing and even with additional landscaping I consider the visual impact would be harmful to the semi-rural appearance of the area.*

*The Council acknowledges that the existing building is not attractive although as a result of its modest size and subdued appearance it helps to mask and mitigate the impact of the more strident industrial buildings to the west of the site. I agree that the use of stone in the new building would be a more sympathetic material. Nevertheless, it seems to me that the overall design of the proposal, particularly in terms of its split level form and the lateral spread of its different elements, would fail to improve the character of the area.*

*Accordingly, I take the view that it would be contrary to LP saved policy DC.1 which, amongst other things, expects all development to provide a high standard of building and landscape design and to contribute to environmental quality. Furthermore, I believe that to allow this proposal would be in contradiction of the guidance in PPS1 which requires that design which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of an area and the way it functions should not be accepted.*

*I have concluded on the first main issue, therefore, that the proposal would not be appropriate for its location and that it would harm the character and appearance of the area. Accordingly, it would be contrary to LP policies DC.1 and DS.5 and the guidance in PPS1 and PPS7.”*

In respect of Issue 2 the Inspector concluded:

*“The Council has been operating a policy of housing restraint because of an oversupply situation....*

*During the course of the emergence of the new RSS the Council adopted a revised IHPS in July 2008. Although the policy applies to all residential planning applications submitted after 31 July 2008 the Council has indicated that it is also relevant to appeals relating to applications submitted before that date, which is true of this case. I have therefore given it substantial weight in reaching my decision.*

*In this regard the Council’s policy in its revised IHPS is that new residential development outside the Urban Boundary will be permitted where proposals are for solely affordable and/or special needs housing or it is accommodation for agricultural or forestry workers. Neither of these circumstances applies in this case. I conclude that because of the proposal’s location outside the Urban Boundary and its purpose as a live-work unit it would be contrary to this policy. In the light of this finding I conclude also that there is no justification for making an exception to the policy position set out in the revised IHPS in order to maintain a five year housing supply in the Borough.”*

In respect of Issue 3 the Inspector concluded:

*“The Council does not object to the use of the access and drive at the rear of the site to serve the residential element....*

*Vehicular access to and from the work unit onto Shawclough Road would utilise the existing access which serves the building on the site. I saw on my visit that visibility from the existing access up and down Shawclough Road would appear to be restricted by the curvature of the road, a retaining wall in the westerly direction and the embankment to the east. However, I was unable to carry out any detailed assessment of the adequacy of the visibility in either direction.*

*The submitted drawings do not show any proposed alterations to the access although it appears that the parking and servicing area would be reduced in size from what it is currently. In view of the possible intensification of the use and from my own observations I consider that*

*the Council is justified in questioning the adequacy of the existing access and proposed parking/servicing area to provide a safe ingress and egress to the site and sufficient off-street space to avoid vehicles having to park on the highway which could be to the detriment of highway safety and the inconvenience of other road users.*

*I conclude on this issue, therefore, that it has not been demonstrated that the access and parking/servicing arrangements for the work unit would be adequate. Accordingly, I conclude that the proposal has not satisfied criteria h) and i) of LP policy DC.1.”*

#### **4. PROPOSAL**

The application seeks permission to replace the existing building with one containing at ground-level a B1(c) Light Industrial unit of 137sq m, with a 2-bedroomed dwelling above of similar floor area.

The proposed building will be sited towards the western boundary of the site. It will measure 10.9m x 12.6m x 5.5m to eaves and 7.6m to ridge, elevated above the level of Shawclough Road at the south-west corner by 1.5m. It is to have a slate roof and external walls of coursed-stone at ground-floor level on the south and east elevations and rendered elsewhere. Its front elevation will face east, towards the intended parking/service area, and will contain a bay-door in the centre and two pedestrian-doors below a projecting canopy. The existing access-point is to be utilized to enter/exit the parking/service area.

The Applicant has advised that besides the parking spaces that can be provided on the hardstanding to the front of the proposed building, its occupiers/visitors will be able to make use of the parking area on the opposite side of Shawclough Road to industrial units west of the application site.

The Planning Statement accompanying the application states:

- There has been a fundamental change in planning policy and housing supply since 2008.
- The Council cannot show that it has a 5 year supply of deliverable housing land.
- The Government has just completed a consultation exercise on proposed changes to national planning policy in respect of housing which it states : We also intend to make clear those proposals for development on small sites immediately adjacent to settlement boundaries should be carefully considered and supported if they are sustainable.
- Releasing this brownfield site, in an accessible location, for a live/work unit at this time would mean that there was less pressure to release greenfield sites elsewhere.

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

##### **National**

##### **National Planning Policy Framework**

Section 1	Building a Strong Competitive Economy
Section 3	Supporting a Prosperous Rural Economy
Section 4	Promoting Sustainable Transport
Section 6	Delivering a Wide Choice of High Quality Homes
Section 7	Requiring Good Design
Section 10	Meeting the Challenges of Climate Change, etc.
Section 11	Conserving and Enhancing the Natural Environment

## **Development Plan Policies**

### **Rossendale Core Strategy DPD (2011)**

AVP3	Area Vision for Waterfoot, Lumb, Cowpe & Water
Policy 1	General Development Locations and Principles
Policy 2	Meeting Rossendale's Housing Requirement
Policy 3	Distribution of Additional Housing
Policy 8	Transport
Policy 9	Accessibility
Policy 10	Provision for Employment
Policy 18	Biodiversity and Landscape Conservation
Policy 19	Climate Change, etc
Policy 21	Supporting the Rural Economy & Its Communities
Policy 23	Promoting High Quality Design & Spaces
Policy 24	Planning Application Requirements

## **6. CONSULTATION RESPONSES**

### **LCC Highways**

Object.

I would object to the proposal which would see the demolition of the existing building with a replacement live/work building on a larger footprint and closer to the highway boundary. The building would reduce the visibility splay for highway users on Shawclough Road and for drivers and pedestrians exiting the development site.

There is no end user specified for the live/work unit and the applicant has provided little information on the likely traffic generation and it is therefore difficult to assess the impact. The site plan shows 3 vehicles parked on the hard standing, however there is no space to turn and exit onto Shawclough Road in forward gear which presents a concern as there are limited sightlines. I anticipate that the servicing, parking and turning area is insufficient in size to accommodate the intensified use.

The north eastern boundary of the development site should be kept well below 1 metre to maximise the sightlines for drivers exiting the proposed driveway to the development site to the north should that be approved.

### **RBC Contaminated Land Consultant**

The proposed development includes a residential element and a contaminated land Preliminary Risk Assessment or equivalent should therefore be submitted with the application. The information submitted is insufficient to be considered a PRA and the LPA may be justified in concluding that it is insufficient to make a decision on the application.

Depending on the LPA's overall position in relation to the development it may consider the imposition of a standard contaminated land condition in the event permission is to be granted.

### **RBC Ecology Consultants**

The development site has negligible ecological value. No further information, conditions or informatives are required.

### **United Utilities**

No objection.

In accordance with the NPPF and the NPPG, the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

## 7. **NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a site notice was posted and neighbours were notified by letter.

No comments have been received.

## 8. **ASSESSMENT**

The main considerations of the application are:

- 1) Principle;
- 2) Visual Amenity;
- 3) Neighbour Amenity; and
- 4) Access/Parking

### Principle

Since refusal of Application 2008/222, for the erection of a live-work unit on this/adjoining land, and dismissal of the subsequent Appeal, it is the case that national and local planning policy has changed. Both the Council's decision and that of the Inspector refer to Rossendale being in a position of over-supply in respect of housing land. However, it remains the case that the site is located within Countryside.

The Framework states that "*Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development...*" (Paragraph 28). In addition, Policy 21 of the Council's adopted Core Strategy states:

*"The rural environment and economy will be protected and enhanced through the following principles:*

*Development will be restricted to existing rural settlement boundaries and within identified major developed sites.*

*Outside of these areas, proposals should demonstrate the social and/or economic needs/benefits for the local rural community and strict consideration will be given to the impact of rural development on the countryside (including the natural environment) and/or Green Belt.*

*Support will be given to the social and economic needs of rural communities by encouraging:*

- *The retention or expansion of appropriately sized businesses*
- *The re-use or replacement of suitable rural buildings for employment generating uses*
- *Proposals seeking to widen local facilities and services for everyday needs*
- *Live-work units*
- *Diversification of the agricultural economy for business purposes*
- *Sustainable tourism developments, including recreation and leisure uses appropriate to a countryside location such as horse-related activities*
- *Arts and crafts based industries*

- *Technological developments needed to facilitate employment development in rural areas and help address social exclusion*
- *The improvement of public transport links to identified urban centres, employment areas and visitor attractions*
- *Increased accessibility to and from rural communities by sustainable modes of travel*

*In all cases, the Council will seek to protect the most productive and versatile agricultural land in the Borough, including agricultural practices unique to the area.”*

In this instance the site is presently occupied by a commercial building. Accordingly, there is no objection in principle to its replacement with another building for employment purposes which will not have a materially greater adverse impact upon the character and appearance of the area, neighbour amenity, highway safety, etc. These matters will be considered below in relation to the intended workspace.

It remains the case that the erection of the proposed dwelling in Countryside is to be considered inappropriate. The Framework states that *“To promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities...”* (Para 55). Similarly, Policy 1 of the Council’s adopted Core Strategy states (amongst other things):

*“Development within Rossendale should take place within the defined urban boundary (Local Plan Saved Policy DS1), unless it has to be located in the countryside, and should be of a size and nature appropriate to the size and role of the settlement....Proposals outside the urban boundary will be determined in accordance with the relevant national and local planning guidance...”*

In this instance the site fringes the Urban Boundary around Whitewell Bottom and the erection of a dwelling here will not serve to enhance or maintain a rural settlement or the vitality of a rural community. Furthermore, it has not been demonstrated that the dwelling has to be located in the Countryside (for example an agricultural worker’s dwelling).

However, the Government places considerable emphasis on housing delivery and the existence or otherwise of a 5-year land supply is a key component in delivering this aspiration. Paragraph 49 of the Framework indicates that housing applications should be considered positively, with Local Plan policies not considered to be up-to-date if a 5-year supply cannot be demonstrated. The Council is of the opinion that it cannot presently demonstrate that it has a 5-year housing land supply and, consequently, Local Plan policies in this regard are not to be considered up-to-date. Paragraph 14 of the Framework states that where the development plan is absent, silent or out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted.

The proposal will make a positive, though small, contribution towards meeting the Borough’s need for housing. Whether the proposal will have a positive, neutral or negative impact in relation to the character and appearance of the area, neighbour amenity, highway safety, etc. is considered below.



## Visual Amenity

Whilst the existing building is not a thing of beauty, it is of modest size and subdued appearance, backed by rising land occupied by mature vegetation. The proposed building is of substantially greater bulk/height towards the frontage to Shawclough Road (by reason of the unit of living accommodation intended above the workspace), is to be constructed using more permanent materials and a design incorporating significantly more openings. Accordingly, the proposed building will cause significantly greater harm to the character and distinctiveness of the countryside, contrary to the guidance of Section 7 (Requiring Good Design) of the Framework and policies of the Council's adopted Core Strategy that seek to ensure that all new development is "...of the highest standard of design that respects and responds to local context, distinctiveness and character".

## Neighbour Amenity

The proposal will not detract to an unacceptable extent from the amenities neighbours currently enjoy or could expect to enjoy.

## Access / Parking

The proposed building will not have a footprint that is significantly greater than the existing building and, consequently, does not reduce the existing parking/servicing area appreciably. However, by reason of the proposed first-floor the usable floor area on the site is more than doubled and a unit of living accommodation provided. Having regard to this intensification in the use of the site, and the specific layout of spaces shown on the submitted drawing, it has recommended refusal of the application on highway safety grounds.

The Applicant has advised that besides the parking spaces that can be provided on the hardstanding to the front of the proposed building, its residents/visitors will be able to make use of the parking area on the opposite side of Shawclough Road to industrial units west of the application site. The car park referred to can accommodate approximately 8 cars/transit vans and results from Planning Permission 2013/40; the applicant advanced the case that it was required to make-good a shortfall in parking at the industrial units opposite. In any case it is questionable whether residents/visitors to the proposed live-work unit would make use of any free spaces given that it is 40m from the entrance to the application site and would require people to walk along the carriageway of Shawclough Road as there is no footway.

## **9. RECOMMENDATION**

Refusal

### **Reasons for Refusal**

1. The proposed building, by reason of its bulk / height, materials and design, will cause unacceptable harm to the character and distinctiveness of the Countryside, contrary to Section 7 of the National Planning Policy Framework and Policies 1 / 21 / 23 of the Council's adopted Core Strategy that seek to ensure that all new development is of the highest standard of design that respects and responds to local context, distinctiveness and character.
2. The proposal will result in unacceptable detriment to highway safety by reason of insufficient servicing, parking and turning areas within the site and reversing of vehicles

on to Shawclough Road where visibility is limited, contrary to Policies 23 and 24 of the Rossendale Core Strategy.