

## **Rossendale District Local Plan**

### **Site H74 - Land east of Holcombe Road, Helmshore Planning application 2019/0335**

#### **Comments by Richard W. Lester and Alan G. Ashworth**

#### **1 Introduction**

1.1 Participants at the Matter 14 hearing on 8th October 2019 were invited to comment to the Inspectors about the above-mentioned planning application. We have submitted the representations below to RBC's Planning Department and would respectfully ask that they be considered also by the Inspectors.

1.2 Objection is made to the above-mentioned planning application on procedural grounds (section 2 below) and because it is contrary to the development plan (section 3 below).

#### **2. Publicising the application**

2.1 It is submitted that the application has not been duly publicised by reason of RBC's failure to comply with relevant legislation.

2.2 Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, S.1.2015, No. 595 prescribes how planning applications shall be publicised. Paragraph (7) is of particular relevance. The article provides, as far as is material for present purposes:

*15.—(1) An application for planning permission must be publicised by the local planning authority to which the application is made in the manner prescribed by this article.*

*(2) In the case of an application for planning permission for development which—*

*(a) is an EIA application accompanied by an environmental statement,*

*(b) does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated, or*

*(c) would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 (public rights of way) applies,*

*the application must be publicised in the manner specified in paragraph (3).*

*(3) An application falling within paragraph (2) ("a paragraph (2) application") must be publicised in accordance with the requirements in paragraph (7) and by giving requisite notice—*

*(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; and*

*(b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.*

*(4) In the case of an application for planning permission which is not a paragraph (2) application, if the development proposed is major development the application must be publicised in accordance with the requirements in paragraph (7) and by giving requisite notice—*

*(a) (i) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or*

*(ii) by serving the notice on any adjoining owner or occupier; and*

*(b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.*

*(5) In a case to which neither paragraph (2) nor paragraph (4) applies, the application must be publicised in accordance with the requirements in paragraph (7) and by giving requisite notice—*

*(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or*

*(b) by serving the notice on any adjoining owner or occupier.*

*(6) Where the notice is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period of 21 days referred to in paragraph (3)(a), (4)(a)(i) or (5)(a) has elapsed, the authority is to be treated as having complied with the requirements of the relevant paragraph if they have taken reasonable steps for protection of the notice and, if need be, its replacement.*

*(7) The following information must be published on a website maintained by the local planning authority—*

*(a) the address or location of the proposed development;*

*(b) a description of the proposed development;*

*(c) the date by which any representations about the application must be made, which must not be before the last day of the period of 14 days beginning with the date on which the information is published;*

*(d) where and when the application may be inspected;*

*(e) how representations may be made about the application; and*

*(f) that, in the case of a householder or minor commercial application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Secretary of State and there will be no opportunity to make further representations.*

2.3 *Where and when to inspect the application.* On the ‘View or Comment on a Planning Application’ page on RBC’s website there is a link to Planning and Building Control Contact Details, and the latter page gives an office address. However, there is nothing to say where, or on what days and at what times, applications may be inspected.

2.4 *How representations may be made.* The ‘View or Comment’ page offers the options of commenting online after registering on the public access portal or commenting by post. It omits the options of handing in written comments or using another delivery service or sending them by email.

2.5.1 *Last day for representations.* A website search takes the viewer to a page headed ‘Planning - Application Summary’. Clicking on the ‘? Help with this page’ link brings up a page explaining the features of the previous page. This includes: ‘Dates You can see significant dates for this application such as when it was received by the planning authority and when a decision is due or when a decision was made’.

2.5.2 Back on the Application Summary page the ‘Important Dates’ link lists 20 dates, of which 9 (including Last Site Notice Posted Date and Latest Site Notice Expiry Date) are ‘Not Available’. The other 11 include Expiry Date and Latest Advertisement Expiry Date (both 8th November 2019), Neighbour Consultation Expiry Date and Standard Consultation Expiry Date (both 30th October 2019), Statutory Expiry Date (19th November 2019) and Determination Deadline (24th December 2019).

2.5.3 No last date for representations is specified. It is not clear which, if any, of the above dates might be the closing date for representations, and there is no obvious link to any page that might show the actual closing date.

2.6 We submit that the provisions of Article 15(7)(c), (d) and (e) have simply not been complied with. The application has not been publicised in the manner required by article 15(1) and must not proceed without a fully compliant publicity exercise being undertaken. It is paramount that legislative requirements be obeyed.

### 3. Conformity with Development Plan: Core Strategy Policies

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan comprises the Rossendale Core Strategy Development Plan Document: The Way Forward (2011-2026), accompanied by a Proposals Map.

3.2 Policy 1 of the Core Strategy ‘General Development Locations and Principles’ provides:

#### *Urban Boundary*

*Development within Rossendale should take place within the defined urban boundary (Local Plan Saved Policy DSI), 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.*

3.3 The proposal is contrary to the development plan, in that the development site is outside the urban boundary. Whilst the emerging Local Plan would bring the site within the urban boundary, the application must be considered in the context of the existing development plan. The early adoption of the emerging Local Plan in its present form cannot be presumed.

3.4 Policy 2 ‘Meeting Rossendale’s Housing Requirement’ provides:

*The net housing requirement for the period 2011-2026, will be achieved through:*

1. *Providing at least 3700 net additional dwellings over the plan period 2011-2026 equating to 247 dwellings per year*
2. *Allocating greenfield and previously developed land to meet the requirement for the period 2011-2026 to meet identified type, size and tenure needs; including indicative phasing where appropriate*
3. *Delivering an overall amount of 65% of all new dwellings on previously developed land (PDL) across the Borough. Rawtenstall will have a lower PDL figure, with substantially higher levels in Bacup, Haslingden and Whitworth*
4. *Supporting the reuse and conversion of appropriate buildings for housing*
5. *Encouraging higher density developments (50+ dwellings per hectare) in sustainable locations, such as within and adjacent to Rawtenstall, Bacup, Haslingden and Whitworth and where well served by public transport, with a minimum density of 30dph across the Borough*

6. *Safeguarding the character of established residential areas from over-intensive and inappropriate new development; and*

7. *Prioritising the development of previously developed land. However, development of un-allocated greenfield land will be permitted where:*

*i. It is for 100% affordable and/or supported housing schemes; or ii. It forms a minor part (up to 15% of the overall site size)*

*of a larger mixed use scheme or a major housing proposal (10+ dwellings) on previously developed land or*

*iii. It delivers a significant social, economic, or environmental benefit, or*

*iv. The application is for a barn conversion and it can be demonstrated that the site has been marketed for economic uses for 12 months, to the satisfaction of the Council, and is not viable for these purposes.*

3.5 It is not clear that the development meets the minimum density requirement of paragraph 5 or satisfies any of the criteria in paragraph 7.

3.6 Policy 4 ‘Affordable and Supported Housing’ states that delivery of affordable housing will be achieved by:

1. *[not material]*

2. *Overall affordable housing targets for all new private sector residential development as follows:*

*a. A minimum of 30% on Greenfield sites over 8 dwellings. A maximum target of 40% will be sought wherever practicable, particularly on large sites or those within areas of high demand.*

*b. A maximum 20% requirement on brownfield sites over 15 dwellings.*

*c. Unless otherwise agreed with the Council, a relaxation of the above requirements will only be considered if it is demonstrated that this would result in the development being financially unviable based on the findings of an economic viability assessment submitted to and approved by the Council. Where the Council is not in agreement with the findings of the assessment an independent auditor will be appointed at the cost of the applicant, to, undertake a site-specific economic viability assessment to ensure that full affordability potential is reached.*

*d. Affordable provision should comprise an equal mix of affordable housing tenures. On marginal sites, the Council will be flexible in terms of tenure mix, however the final split should respond to local needs.*

*e. Presumption will be for on-site provision unless no local need exists. In such cases a commuted sum in lieu of on-site provision will be required to buy vacant residential properties and bring them back into use as affordable units through a Registered Social Provider (RSP) up to a decent homes standard. The Council will look to use its various powers to acquire property if a negotiated price cannot be reached. This may include the use*

*of Compulsory Purchase Orders (CPO) as well as Empty Dwelling Management Orders (EDMO).*

3.7 The site is large, consisting of greenfield and brownfield, but the proposal makes no provision for affordable housing. The affordable housing target should be a combination of paragraphs 2a and 2b in Policy 4 of the Core Strategy. In addition it is noted that the proposal does not accord with paragraph 64 of the National Planning Policy Framework which stipulates that, *where major development involving the provision of housing is proposed, planning policies and decisions* [our emphasis] *should expect at least 10% of the homes to be available for affordable home ownership.* None of the qualifications or exemptions in paragraph 64 applies to the present application.

3.8 Although the ‘Vision’ on the fourth page of the Design and Access Statement asserts that the proposals will provide a range of affordable homes, paragraph 5.2.3, *ibid.*, says that on viability grounds there will be none, either on site or off site, based on a Viability Assessment by Savills. The Viability Assessment and covering letter raise a number of factors which, they argue, preclude the provision of affordable housing, but having regard to the size of the development and desirability of the area, it is surprising that such a large site is deemed unable to bear its share of affordable housing. The inputs to the Viability Assessment, especially the anticipated gross income from sales, should be subject to the closest scrutiny.

3.9 Policy 9: ‘Accessibility’ proposes the application of certain principles to all new development within Rossendale, including:

*New development within the urban boundary should be concentrated close to main public transport corridors such as Rising Bridge - Whitworth or within 400 metres of a bus stop with regular services. Enhanced links to key services and employment opportunities, including in adjacent Boroughs, such as Kingsway in Rochdale, will be pursued. Supporting innovative schemes for “demand responsive” transport will be pursued for hard to access locations. Accessibility planning will be used as a tool to identify the most appropriate form of response.*

3.10 Paragraph 233 of the Core Strategy states that regular services should have at least a 30 minute peak hour frequency. Even combined, the two bus services within 400 metres of the site, 11 and 481, do not have a 30-minute peak hour frequency. The proposal therefore fails to meet the accessibility requirement of the Core Strategy.

3.11 According to Policy 23 ‘Promoting High Quality Design and Spaces’:

*The Council will ensure that Rossendale’s places and buildings are attractive, safe and easy to use, by ensuring that all new developments:*

- *Promote the image of the Borough, through the enhancement of gateway locations and key approach corridors*
- *Are of the highest standard of design that respects and responds to local context, distinctiveness and character*
- *Contribute positively to local identity and heritage in terms of scale, density, layout, materials and access*

- *Maintain the relationship between the urban areas and countryside, particularly at the rural-urban interface where the contrast between the natural and built environments is most prominent*
- *Have public and private spaces that are safe, attractive, easily distinguished, accessible and complement the existing built form*
- *Protect important local and longer-distance views*

3.12 There is nothing in the application to suggest that the proposal will respect and respond to local context, distinctiveness and character. The house types are simply taken from the developer's library, and the developer's approach seems to be that, as Rossendale has already suffered plenty of suburban-type development, it can have some more on this site. Nor is it clear how the development will contribute positively to local identity and heritage or how views will be protected.

3.13 The proposed LEAP in the south-east corner is likely to become a centre for anti-social behaviour after dark and an area for criminals to lurk in and flout in the face of Policy 23's aim of development being designed to make crime difficult to commit by increasing the risk of detection and providing (where necessary) for well designed security features.

Richard W. Lester and Alan G. Ashworth

31st October 2019