

Rossendale Borough Council

**NOTICE OF COMPLETION OF
S.106 LEGAL AGREEMENT**

TO: BRIAN SHEASBY
KEITH BELL
PHIL SEDDON
NEIL BIRTLES – CASE OFFICER
VINCENT HINDLEY – PLEASE REGISTER AS A LOCAL LAND CHARGE



FROM: LINDA FISHER
LEGAL FILE NO: Z.12/241

The following has been completed:

Planning Ref: APP/2004/513

Proposal: Application for 25 residential apartments

Completion Date (as on Deed) 19th January 2007

Parties Turnbull and Stockdale Ltd

Terms Commuted sum and also setting up a management company to look after open space areas

Receipt of money 7 days prior to implementation

Request for payments Developer to give notice of implementation

Details

Others

Commuted Sum Towards a community centre / Edenfield and District or other agreed by RBC Amount £25,000

*** Planning permission can now be issued
* Please now register the Section 106 Agreement in Part 2
of the Planning Register**

LEGAL AGREEMENT CONFIRMATION FORM

Planning
Application No

APP/2004/513

Site Details

Edenwood Mill

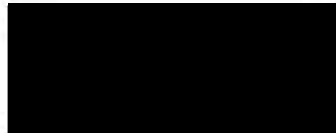
Date Legal Agreement signed

19th JANUARY 2007

Confirmation that planning permission can be issued and legal agreement checked

Name: Linda Fisher

Date: 19th January 2007



Signature:

Last printed 05/01/2007 4:13 PM – Final draft.

Dated this 19th day of January 2007

ROSSENDALE BOROUGH COUNCIL

and

TURNBULL AND STOCKDALE LIMITED

AGREEMENT

Pursuant to Section 106 of the
Town and Country Planning Act 1990
relating to land at Edenwood Mill Edenwood Road, Edenfield

LF/SS/Z.12/241

Linda Fisher
Head of Legal and Democratic Services
P. O. Box 74,
Kingfisher Business Centre,
Futures Park,
Bacup. OL13 0WU

THIS AGREEMENT is made the 11th day of January Two thousand and seven BETWEEN ROSSENDALE BOROUGH COUNCIL P. O. Box 74 Kingfisher Business Centre Futures Park Bacup Lancashire OL13 0WU (hereinafter called "the Council") of the one part and **TURNBULL AND STOCKDALE LIMITED** (Registration number 28798 IOM) of Druin Veg Santon Isle of Man IM4 1EG (hereinafter called "the Owner") of the other part

WHEREAS

- (1) The Owner is seised for an estate in fee simple in possession of that part of the Land known as land lying to the east of Bolton Road North Ramsbottom registered at the Land Registry under title number LA 456425 and shown edged red on the attached plan
- (2) The Council is the local planning authority for the purposes of the Town and Country Planning Act 1990 for the area of Rossendale within which the Land is situate
- (3) The Owner has submitted the Application to the Council
- (4) The Council is minded to approve the Application in the form of the draft Planning Permission annexed hereto
- (5) The Owner has agreed that upon the giving notice to the Council pursuant to Clause 4.1 it will pay to the Council in accordance with the Agreement the Commuted Sum towards the cost of the Council in providing or maintaining Local Community Facilities within the area

NOW THIS DEED WITNESSETH as follows:-

1. **IN THIS DEED** (including the Recitals) where the context so requires or admits the following expressions shall have the following meanings:-

1.1.1 "the Act" The Town and Country Planning Act 1990 as

- amended by Section 12 of the Planning and Compensation Act 1991
- 1.1.2 "the Application" An application numbered 2004/513 for planning permission for the Development submitted by the Owner to the Council
- 1.1.3 "the Commuted Sum" the sum of twenty eight thousand nine hundred and seventy five pounds (£28,975)
- 1.1.4 "the Development" the extension, alteration and conversion of Edenwood Mill to form 25 residential apartments including formation of passing bays along Edenwood Lane Edenwood Mill Edenwood Road Edenfield
- 1.1.5 "implement" Carry(ing) out a material operation as defined in "implementing" Section 56 of the Act
- 1.1.6 "Local Community Facilities" Community Facilities which may be used towards the replacement or improvement of facilities of the Edenfield and District Community Association or a Community Facility to be determined by the Council within Edenfield
- 1.1.7 "the Land" All that land lying to the East of Bolton Road North shown for identification purposes only edged red on the attached plan
- 1.1.8 "Open Space Area" The area of open space shown edged blue on Plan 2
- 1.1.9 "Open Space" The Scheme relating to the laying out and

Management maintenance and management of the Open Space
Scheme” Area to be agreed in writing with the Borough
Council prior to disposal of 60% of the total number
of dwellings provided on the Land.

1.1.10 "the Planning Planning permission for the Development reference
Permission” 2004/513 in the form of the annexed draft

1.2. The expressions "the Council" and "the Owner" shall include their
respective successors in title and assigns

1.3 Words importing the singular number only shall include the plural
number and vice versa and words importing any particular gender shall
include masculine feminine and neuter genders

1.4 References in this agreement to any clause or sub-clause or Appendix
without further designation shall be a reference to the clause or
sub-clause of or Appendix to the Agreement so numbered

2. **THIS** Agreement is made in pursuance of Section 106 of the Act to the intent
that it shall bind all interests in the Land into whosoever hands the same may
come and the Owner and his successors in title and assigns and all persons
claiming under or through them

3. **IT IS HEREBY AGREED AND DECLARED** as follows:-

3.1 the covenants in this Agreement are planning obligations for the
purposes of Section 106 of the Act and are enforceable by the Council

3.2 without prejudice to liability for any subsisting breach of covenant prior to
parting with such interest no party shall be liable for breach of a
covenant contained in this Agreement after having parted with all
interest in the Land

3.3 all notices served pursuant to this Agreement shall be in writing and shall be deemed duly served if delivered or sent by the recorded delivery service in the following manner:-

3.3.1 in the case of a notice to be served on the Council addressed to its Chief Executive at the above address

3.3.2 in the case of a notice to be served on the Owner to the Owner at the above address

3.4 if the Planning Permission is not granted or if it is revoked or the Planning Permission expires because it is not implemented this Agreement shall be annulled and of no effect and the Council shall immediately remove from its local register of local land charges any entry relating to this Agreement

3.5 unless expressly stated nothing in this Agreement will create any rights pursuant to the Contracts (Rights of Third Parties) Act 1999 in favour of any person other than the parties hereto

4. **THE OWNER** for itself and its successors in title and assigns hereby covenants with the Council as follows:-

4.1 to give notice in writing to the Council not less than seven days before implementing the Planning Permission and upon giving the said notice to pay the Commuted Sum increased with inflation in accordance with Clause 4.2 of this Agreement

4.2 in the event of late payment of the Commuted Sum interest will be paid on any sum outstanding at a rate of 3% per annum above the base rate of the National Westminster Bank Plc and accrue from the date payment should have been made to the Council to the date of payment thereof to

the Council

- 4.3 the Commuted Sum shall be uplifted by the amount which bears the same proportion to the Commuted Sum as the amount by which the all items Figure of the Index of Retail Prices published by the Department for Employment or any successor Ministry or Department for the month before the date of payment exceeds the Index Figure of the said Index at the date of this Agreement
- 4.4 the Owner shall on the execution hereof pay to the Council its reasonable legal costs in the sum of £750 properly incurred in the preparation of this Agreement
- 4.5 (i) to submit to the Council for its written approval proposals for the formation of a company whose members shall after completion of the sale of all dwellings comprised in the Development comprise all of the owners ("the Company") whose objects shall include compliance with the Open Space Management Scheme
- (ii) to secure the formation and registration of the Company
- (iii) that the Open Space Area will at all times following the transfer of the ownership of the Company be owned by the Company and will not be subdivided and sold separately and shall at all times be maintained by the Company in accordance with the Open Space Management Scheme in perpetuity
- (iv) to give the Council notice of sale or transfer of the ownership of the Open Space Area to the Company which notice shall include the name and address of the Company this requirement to apply to any future transfer of the ownership

- (v) the Open Space Area will be for the use and benefit of all occupiers of the Development

5. **THE COUNCIL** hereby covenants with the Owner as follows:-

5.1 to use the Commuted Sum paid to the Council under this Agreement towards Local Community Facilities

6. Except as to matters of law and subject to the express provisions of this Agreement to the contrary any dispute or difference arising between the parties as to any of the provisions of this Agreement and/or their respective rights duties or obligations or as to any other matter or thing in any way arising out of or in connection with the subject matter of this Agreement shall forthwith be referred by the parties or any of them for determination by an independent person ("the Expert") to be agreed upon between the parties and failing such agreement within ten (10) Working Days of any party calling upon the others to agree to be appointed on the application of the parties or any of them by the President for the time being of The Royal Institution of Chartered Surveyors or any successor Institute ("the President")

The Expert shall act as an expert and make his determination within twenty (20) Working Days from the date of his appointment such determination to be made in writing giving full reasons therefore and shall be binding upon the parties

If the Expert shall die delay or become unwilling or incapable of acting or if for any reason the President shall in his absolute discretion think fit he may in writing discharge the Expert and appoint another in his place

It is hereby agreed and declared that:-

- (a) the Expert shall afford to the parties the opportunity to make representations in writing and consider any written representations made by or on behalf of the parties hereto which are received by him within ten (10) Working Days after the parties have been afforded such an opportunity and each party shall be entitled to receive a copy of any such written representations made by or on behalf of the other parties and within five (5) Working Days of such receipt to make written counter-representations
- (b) the Expert shall be entitled to call for such independent expert advice on such matters as he shall think fit
- (c) the Expert shall have an unfettered discretion to determine the reference to him
- (d) the fees and expenses of the Expert including the cost of his appointment shall be borne equally between the parties (and if any party shall pay the Expert's fees and expenses it shall be entitled to recover one half from the other) unless the Expert shall direct otherwise and he shall have power so to direct if he considers it reasonable to do so having had regard to the conduct of the parties during the course of the dispute in question

IN WITNESS whereof this document has been executed as a Deed by the respective parties hereto in the appropriate manner with the intention of such document being Delivered on the part of each of them a Deed on (but not before) the day and year first before written

ROYAL MAIL
REGISTERED
114752

THE COMMON SEAL of ROSSENDALE
BOROUGH COUNCIL was hereunto affixed
in the presence of:-



Authorised Signat



THE COMMON SEAL of TURNBULL AND
STOCKDALE LIMITED was hereunto affixed
in the presence of ;-

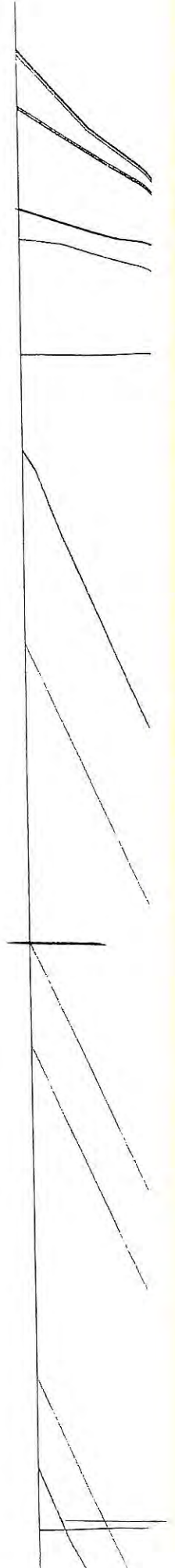
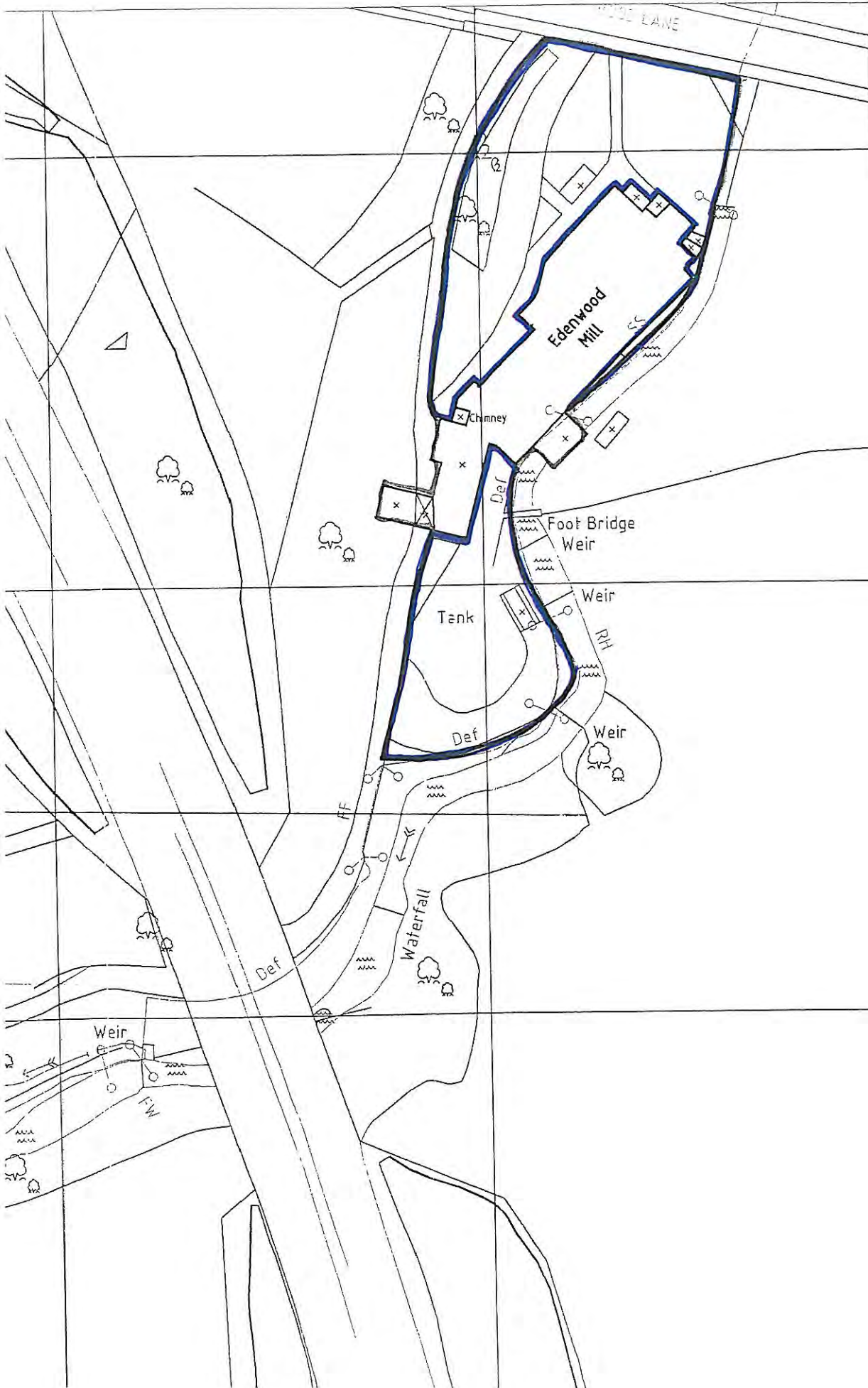
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)
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Director/Company Secretary

Director/Company Secretary



Plan 2



- 3 Details of the proposed treatment of the site boundaries shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved boundary treatment shall be completed in accordance with the approved details before any of the apartments hereby approved are first occupied and shall thereafter be retained at all times.

Reason for this condition : In order to ensure the satisfactory appearance of the development and to safeguard the character and appearance of the Green Belt, in accordance with policies DC.1 and DC.4 of the Rossendale District Local Plan

- 4 The apartments hereby approved shall not be occupied until the access road connecting Rosebank with the application site, and the passing places shown on approved drawing number 1768-031, have been surfaced, drained (and sealed if deemed appropriate) in accordance with details which shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The submitted details shall include for the provision of traffic calming measures on the access road and measures for lighting the road. The access lane and passing places shall be surfaced, drained (and sealed if deemed necessary), and the approved traffic calming and lighting measures implemented. In accordance with the approved details before the approved dwellings are first occupied and shall thereafter be retained at all times.

Reason for this condition : In the interests of amenity and highway safety, in accordance with policy DC.1 of the Rossendale District Local Plan.

- 5 Details of the proposed means of surfacing, draining (and sealing if deemed appropriate) of the car parking spaces and associated vehicular turning areas shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The car parking spaces and vehicular turning areas shall be surfaced, drained (and sealed if deemed appropriate) in accordance with the approved details, and laid out in the manner shown on approved drawing number 1768-032, before any of the approved apartments are first occupied. These areas shall thereafter be retained at all times solely for the parking and turning of vehicles in conjunction with those dwellings.

Reason for this condition : To ensure that adequate off-street parking and turning space is provided in conjunction with the dwellings and in the interests of amenity, in accordance with policies DC.1 of the Rossendale District Local Plan.

- 6 Details of the proposed cycle store shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The approved store shall be completed, in accordance with the approved details, before any of the apartments hereby approved are first occupied and shall thereafter be retained at all times solely for the storage of cycles in conjunction with the development.

Reason for this condition : In the interests of securing sustainable development, in accordance with policy DC.1 of the Rossendale District Local Plan.

- 7 The site shall be landscaped in accordance with details which shall be submitted to, and approved in writing by, the Local Planning Authority before development commences. The submitted details shall include the location of all existing trees and hedgerows on the site and shall specify those that are to be retained and those that are to be removed.

Reason for this condition : In the interests of visual amenity, in accordance with policies DC.1 and E.4 of the Rossendale District Local Plan.

- 8 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five 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 for this condition : In the interests of visual amenity, in accordance with policies DC.1 and E.4 of the Rossendale District Local Plan.

- 9 No tree on or adjacent to the site shall be lopped, topped or felled without the prior written approval of the Local Planning Authority.

Reason for this condition : In the interests of visual amenity, in accordance with policies DC.1 and E.4 of the Rossendale District Local Plan.

- 10 Before any equipment, machinery or materials are brought onto the site, fencing to protect the safeguarded trees within or on the boundaries of the site shall be erected in accordance with a detailed scheme for that purpose which shall be first submitted to and approved in writing by the Local Planning Authority. The scheme shall be drawn up in compliance with the relevant provisions of BS 5837 (1991). The said fencing shall be maintained until all the equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

Reason for this condition : To ensure adequate protection to prevent harm to trees which make a valuable contribution to the amenity of the area, in accordance with policies DC.1 and E.4 of the Rossendale District Local Plan.

- 11 Prior to the development commencing:-
- a) a contaminated land Phase One 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 One report recommend that a Phase Two investigation is required, a Phase Two investigation shall be carried out and the results submitted to, and approved in writing by, the Local Planning Authority
 - c) Should the Phase Two investigations indicate that remediation is necessary then a Remediation Statement shall be submitted to, and approved in writing by, the Local Planning Authority. The remedial scheme in the approved Remediation Statement shall then be carried out.
- 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 Local Planning Authority prior to the first use or occupation of any part of the development hereby approved.

Reason for this condition : To ensure the development is suitable for its end use and the wider environment in accordance with policy DC.1 of the Rossendale District Local Plan.

- 12 Notwithstanding the details given on the approved plans, and unless otherwise agreed in writing by the Local Planning Authority, no dwellings shall be formed at ground floor level within the building.

Reason for this condition : To minimise the risk of flooding to future occupiers of the apartments, in accordance with policy DC.1 of the Rossendale District Local Plan and the requirements of PPG25.

- 13 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 works shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason for this condition : To safeguard the amenities of nearby residential properties in accordance with policy DC.1 of the Rossendale District Local Plan.

Summary of Reasons for Approval

- 1 It is considered that the development satisfies the requirements of policies DS.1, DS.3, DC.1, DC.3, DC 4, T.4, E.4 and E.7 of the Rossendale District Local Plan. The proposal to convert, alter and extend this building to form apartments is considered to be in line with Green belt policy. It is considered that the proposed conversion, alteration and extension works will retain the character of the building and that the converted building will appear in keeping with, and relate in a satisfactory manner to, its surroundings. It is contended that the proposal will not give rise to any undue highway safety problems. Finally, conditions are imposed designed to ensure the provision of adequate public open space in conjunction with the development, the retention of trees and to minimise flood risk.

Summary of the policies and proposals in the Development Plan(s) which are relevant to the decision

Local Plan

DC1 Development Criteria

Note:

Date:

Development Control
One Stop Shop
Town Centre Offices
Lord Street, Rawtenstall
Rossendale BB4 7LZ

Brian Sheasby
Team Manager - Development Control

Notes

N.B. This permission refers only to that required under the Town and Country Planning Act 1990 and does not include any consent or approval under any other enactment, byelaw, order, regulation or Act. This consent does not constitute Listed Building Consent.

A) Appeals to the Secretary of State

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he or she may appeal to the Secretary of State in accordance with sections 78 and 79 of the Town and Country Planning Act 1990 within six months of the date of this notice. (Appeals must be made on a form which is obtainable from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or from the web site www.planning-inspectorate.gov.uk). The Secretary of State has the power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted otherwise than subject to the conditions imposed by the Council. Appeals that are pursued unreasonably may be the subject of an award of costs in accordance with the provision of Circular 8/93.

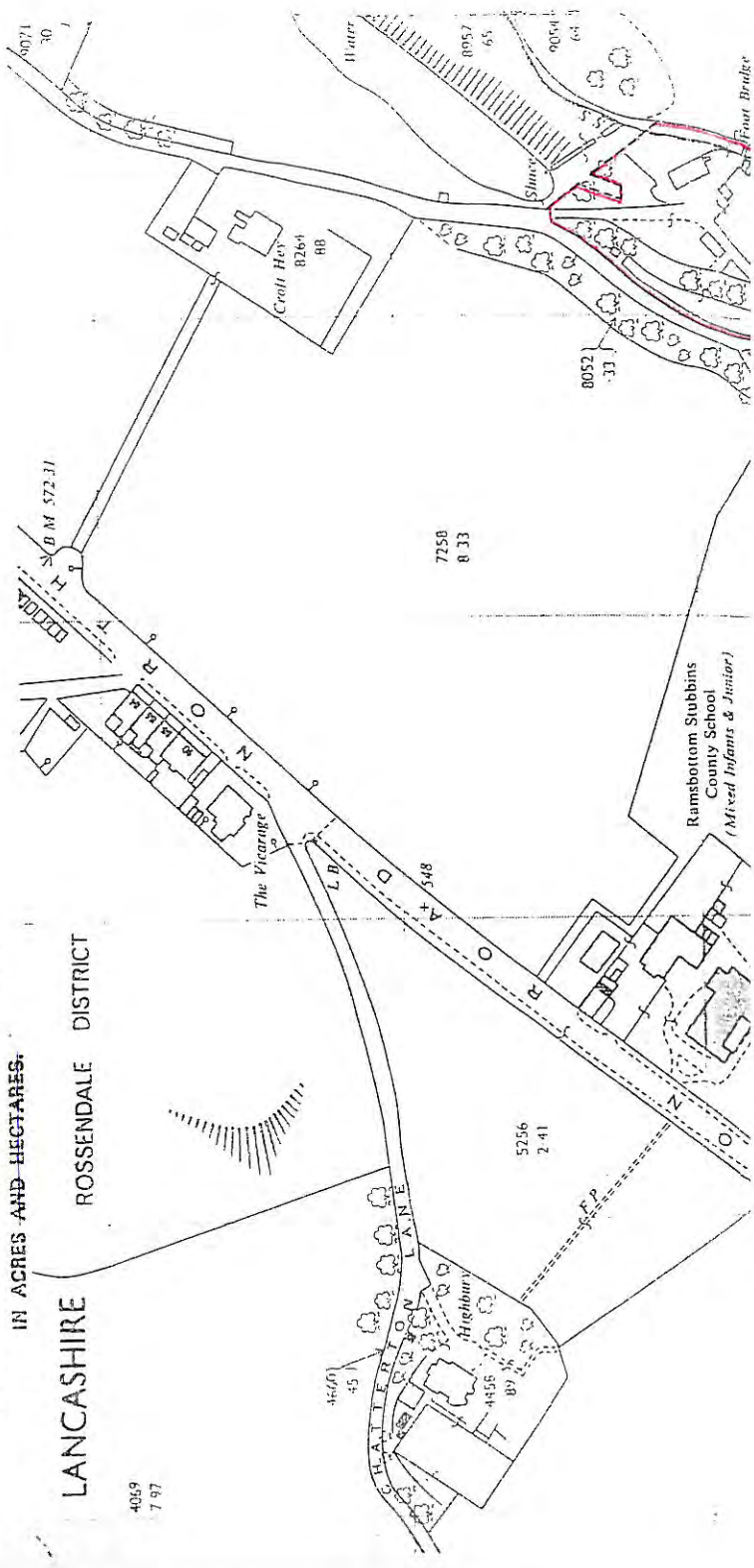
B) Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

LA 456425

H.M. LAND REGISTRY		TITLE NUMBER	
LA 456425		LA 456425	
ORDNANCE SURVEY PLAN REFERENCE	COUNTY	NATIONAL GRID	SECTION
	LANCASHIRE	SD 7918	
Scale: 1/2500			
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NOTE : AREAS ON THIS PLAN ARE EXPRESSED
IN ACRES AND HECTARES.



...states
...copy of
...the general
...the exact