

Application Number:	2019/0263	Application Type:	Full
Proposal:	Erection of one passivhaus family dwelling, garage and garden, with associated access enhancements and hard & soft landscaping (inc means of enclosure, heritage interpretation boards & community picnic /viewing terrace)	Location:	Land at Folly Clough, off Goodshaw Lane, Crawshawbooth
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	27 August 2019
Applicant:	Ms C Turner	Determination Expiry Date:	19 August 2019
Agent:	Mr R Gee		

Contact Officer:	Neil Birtles	Telephone:	01706-238645
Email:	planning@rossendalebc.gov.uk		

REASON FOR REPORTING	
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	Yes
Other (please state):	

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

Approval, subject to the Conditions set out in Section 10 of the report.

2. SITE

The application relates to land designated as Countryside to the NE of Crawshawbooth; it is approximately 750m from the centre of Crawshawbooth. It is accessed via a narrow unpaved lane extending E from Goodshaw Lane for approximately 200m. Public Footpath No. 341 runs over the lane and then through the site.

The site forms part of a wider wooded tract of land which follows the course of a stream, here running on an E-W axis within a valley known as Folly Clough. From the brook running to the south side, the site slopes/steps up to woodland beyond its northern boundary.

The site was once occupied by mill buildings and associated cottages, said to have been destroyed by fire in the 1960's. The site has regenerated and is now largely covered in trees, grasses and other vegetation, although there are still to be seen some concrete floor slabs/hard standings in the centre and remnant stone and brick walls towards the northern boundary.

3. RELEVANT PLANNING HISTORY

2018/0286 Erection of 5-bedroom dwelling, with associated hard & soft landscaping (inc means of enclosure, heritage interpretation boards & community picnic/view terrace)

For the level part of the site now occupied by concrete floor slabs/ hardstandings the scheme proposed erection of a dwelling of modern design and to meet Passivhaus standard. It was to be constructed with a range of facing materials, including brick, natural stone, timber boarding, glazing and with roofs of slate, photovoltaic panel and sedum.

The submitted documentation stated:

"The application proposes the erection of a single family home and garage, with a private garden area. The house will be largely single storey, reflective of the former north light shed that once occupied the site.

The house is to be sited to ensure plentiful space for, and enhancements to, the public footpath that runs through the site. The massing and siting of the former Mill is reflected in the plan layout. The family home is to be split into two distinct sections - a bedroom wing and a living wing. The obtuse angling of the house will create an enclosed space where the main Mill structure once stood. This space will create a secure, private garden for the home."

Statutory consultees raised no objections.

Of the 10 public representations received there were 9 objections. A link to an online petition containing 433 signatures of people opposed to the development was also received.

This application was refused on 03/08/18 for the following reasons:

1. The scheme would cause unacceptable harm to the essentially natural and rural character of the countryside.
2. The scheme would result in unacceptable harm to part of the Borough's Green Infrastructure network.
3. The scheme would result in the creation of an isolated new dwelling in the countryside.
4. It has not been demonstrated that the proposed scheme would provide adequate parking for a five-bedroom dwelling in accordance with the parking standards.

In the subsequent Appeal the Council indicated that it did not wish to defend Reason 4.

On 02/05/19 the Appeal was dismissed, the Inspector doing so only due to the issue of Badgers:

“From the results of the Badger Survey Report and supplementary email, the proposal would adversely affect a badger sett infrequently used by a single badger. The impacts would be unavoidable as the sett lies within the area to be developed and would need to be closed prior to works taking place.

The proposal would adversely affect a species protected by law. I have no information regarding alternative provision or whether the measures outlined in Section 7 of the Badger Survey Report would be suitable to mitigate the negative impacts. I have no information on whether any compensation measures are included or would be necessary. Therefore, I must apply the precautionary principle and find the proposal would cause harm to badgers.”

4. PROPOSAL

The current application seeks Permission for the same scheme of development as proposed under Application 2018/0286.

However, besides the Arboricultural Impact Assessment and the Landscaping Layout/Soft Landscape Specification previously submitted, the current application is accompanied by a series of Ecology Reports, including one relating specifically to impact of the proposal upon Badgers.

5. POLICY CONTEXT

National

National Planning Policy Framework

Section 2	Achieving Sustainable Development
Section 5	Delivering a Sufficient Supply of Homes
Section 6	Building a Strong, Competitive Economy
Section 8	Promoting Healthy and Safe Communities
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well Designed Places
Section 14	Meeting the Challenge of Climate Change, Flooding, etc
Section 15	Conserving and Enhancing the Natural Environment
Section 16	Conserving and Enhancing the Historic Environment

Development Plan

RBC Core Strategy DPD (2011)

AVP4	Area Vision for Rawtenstall, Crawshawbooth, Goodshaw & Loveclough
Policy 1	General Development Locations and Principles
Policy 8	Transport (inc Appendix 1 Parking Standards)
Policy 9	Accessibility
Policy 18	Biodiversity, Geodiversity & Landscape Conservation
Policy 19	Climate Change and Low & Zero Carbon Sources of Energy
Policy 21	Supporting the Rural Economy and its Communities

Other Material Considerations

National Planning Practice Guidance

6. CONSULTATION RESPONSES

RBC Ecology Consultant

No objection subject to conditions

RBC Tree Consultant

No objection subject to conditions

RBC Contamination Consultant

No objection subject to conditions

LCC Highways

No objection subject to conditions

United Utilities

No objection subject to conditions

7. REPRESENTATIONS

To accord with the General Development Procedure Order neighbour were notified by letter, a press notice published and a site notice posted.

The following comments have been received:

Folly Bank Farm

Object for the following reasons:

- Over development/ More open space needed on development
- Out of keeping with character of area
- Inadequate access/ Increase in traffic
- Increase danger of flooding
- Affect local ecology/local beauty spot used for generations for recreation
- Felling of trees prior to submission of application
- Residential Amenity

25 Bonfire Hill Road

Object for the following reasons:

- Affect local ecology
- Increase danger of flooding
- Out of keeping with character of area
- Harm to an area of natural beauty/used by many for recreation and walking

There is also an on-line petition opposing this development which has over 500 signatures

It should be noted that in respect of Application 2018/0286 the Council received 9 letters of objection and one other representation. A link to an online petition then containing 433

signatures of persons opposed to the development was also received. The Appeal Inspector's decision letter indicates that they had regard to the objections/representation and online petition in arriving at their decision.

The Agent in respect of the current application has commented that:

"Objectors have objected on points already dealt with by the Inspector (and should therefore be afforded no weight...) and the petition on the world wide web (which people in the USA, Ghana and Switzerland can hop onto and object) was set up under a different application and is contrived (by soliciting multiple objections and opening up the entire planet to objection). It should carry no weight."

8. ASSESSMENT

The Officer Report in respect of Application 2018/0286 identified the main issues requiring considerations to be:

- 1) Principle; 2) Benefits of the Development; 3) Visual Amenity, Countryside Impact & Heritage Impact; 4) Neighbour Amenity; 5) Accessibility, Parking and Highway Safety; and 6) Ecology.

The Inspector in respect of the Appeal against this decision considered none of the reasons for refusal advanced by the Council to warrant dismissal of the Appeal, concluding as follows:

"The Council cannot demonstrate a 5 year supply of housing land, stating a supply of 2.4 - 2.6 years. For decision-taking this means the policies which are most important for determining the application are out-of-date. Therefore, the Framework advises that 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.

The proposal would be in a suitable location for housing, introducing a well-designed, Passivhaus standard and off-grid large family home on a previously developed site that would modestly contribute towards the significant undersupply of housing. There would be no harm to the character and appearance of the area, and there would be associated social and economic benefits through the provision of seating areas and educational information boards, along with a moderate contribution to the local economy through construction and increased local spending. Additionally, there would be modest environmental benefits through improvements to the public right of way, removal of invasive species and a comprehensive landscaping scheme in introducing native species.

On the other hand, in applying the precautionary principle, there would be harm to badgers, which are a species protected by law. I attach very significant weight to this matter. Therefore, it is my judgement that this adverse impact would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole."

The current application proposes for the site the same scheme of development as under Application 2018/0286. The decision to be made in respect of this application turns on whether or not the applicant has adequately addressed the badger issue which prompted dismissal of the appeal.

The Badger Report now submitted acknowledges that the proposal will require closure of a sett infrequently used by a single badger and, consequently, the development will not be able to proceed until such time as Natural England has issued a licence for its closure and providing suitable compensation for this. It sees no reason why a badger development licence would not be granted in the present circumstances by Natural England. It recommends a further badger survey of the site be undertaken by a suitably-qualified ecologist shortly before commencement of the development to determine whether it remains the case that there is a need to obtain a licence and, in that event, to define the mitigation and compensation measures the licence should require before/during/after closure of the sett.

The Council's Ecology Consultant has advised as follows:

The application has been informed by a number of Ecology surveys and reports, including:

- *Badger survey and sett closure method statement*
- *Preliminary Otter Survey report*
- *Preliminary [Bat] Roost Assessment Report*
- *Ecological Assessment Report*

These surveys have been carried out by suitably qualified ecologists and are to appropriate standards. No further surveys need to be carried out before deciding the application.

Badgers

The Badger surveys identified a badger sett within the Folly Clough Site, which would appear to be used occasionally by a single Badger. It is considered highly likely that the development proposal will cause harm to this Badger sett. Badgers and their setts are specially protected under the terms of the Protection of Badgers Act 1992.

A Mitigation Plan to avoid harm to Badgers has been proposed (Section 7 of the Badger Survey Report). The Plan involves the closure of the sett, which will need to be carried out under the terms of a License issued by Natural England. Obtaining a License is a separate process from obtaining planning permission.

I would regard the Mitigation Plan as satisfactory and would conclude that providing the Plan is implemented in full the development could be permitted without causing any harm to Badgers. I would recommend that the Mitigation Plan is required to be implemented by means of a Condition placed on any permission which may be granted to the scheme.

It should be noted that Badgers are mobile in their habits and therefore if the development is delayed for more than 12 months from the date of the survey (June 2018) surveys will need to be updated.

Other Matters

Section 109 NPPF states that the planning system should contribute to and enhance the natural and local environment. The site includes some native trees and scrub, most of which is to be retained and the proposed landscape plan includes significant amounts of native landscaping. I am therefore satisfied that net benefits are likely. I have no objection to the submitted landscape proposals.

Some site clearance is required to enable the development, including the removal of potential bird nesting habitat. I recommend a Condition to ensure no works to trees or shrubs between the 1 March and 31 August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and no active bird nests are present.

Himalayan Balsam and Japanese Knotweed are present on the site. I recommend a Condition to ensure that prior to any earthworks a method statement detailing eradication and/or control and/or avoidance measures for Himalayan Balsam and Japanese Knotweed be agreed with the LPA. The agreed method statement shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

The Brook runs along the boundary of the site. Whilst it appears clear of the proposed works, there is a risk during and post construction of negative impacts on the ecological status of the watercourse. I recommend conditions to ensure:

- *No site clearance/ development take place, or material or machinery brought on site, until a construction method statement to protect the Folly Clough Brook has been agreed with the LPA.*
- *No development take place until it has been demonstrated to the LPA that there will be no negative impacts on the ecological status/potential of the Folly Clough Brook resulting from the disposal of foul water and surface water disposal post-development.*

It is recommended that permission be granted to the proposal on the basis of the Conditions recommended by the Council's Ecological Consultant.

9. SUMMARY REASON FOR APPROVAL

The proposal will make a small, but useful, contribution towards meeting the housing requirements of the Borough. Notwithstanding that the site is located within the Countryside, it is not in a remote location and is previously-developed land. Accordingly, the proposed development is acceptable in principle and, subject to conditions, will not have an unacceptable impact for visual & neighbour amenity, ecology, pollution & flood risk, or pedestrian & highway safety. As such, it is considered that the proposed development accords with the National Planning Policy Framework and Policies AVP4 / 1 / 8 / 9 / 18 / 19 / 21 / 23 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

Approve

Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To accord with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development shall be carried out in strict accordance with the following unless otherwise required by the Conditions below :

<u>Title</u>	<u>Drwg No</u>	<u>Date Rec'd</u>
Application Form	-	22 / 06 / 19
Site Location Plan	10322-02 B	28 / 06 / 19

Proposed Site Plan	10322-C03 B	28 / 06 / 19
Proposed Site Plan - Access Plan	10322-L02 A	28 / 06 / 19
Proposed Site Plan - Technical Plan	10322-L03 C	28 / 06 / 19
Garage Plan	10322-DO1	28 / 06 / 19
Proposed Ground Floor Plan	10322-C01 E	28 / 06 / 19
Proposed First Floor Plan	10322-C02 B	28 / 06 / 19
Proposed Roof Plan	10322-C05	28 / 06 / 19
Elevations (1 of 2)	10322-E01 B	28 / 06 / 19
Elevations (2 of 2)	10322-E02 A	28 / 06 / 19
Construction Section	10322-S01 A	28 / 06 / 19
Construction Section 2	10322-S02	28 / 06 / 19
Landscape Layout	412.04 REV A	28 / 06 / 19
Sectional Elevations	10322- E03	28 / 06 / 19
Design & Access Statement	-	28 / 06 / 19
Passivhaus Certification, Energy Systems & Services Feasibility Report	-	28 / 06 / 19
Accessibility Assessment	-	28 / 06 / 19
Preliminary Ground Investigation Report	-	28 / 06 / 19
Drainage Strategy Report	-	28 / 06 / 19
Landscape & Visual Impact Assessment	-	28 / 06 / 19
Soft Landscape Specification	-	28 / 06 / 19
Arboricultural Impact Assessment	-	28 / 06 / 19
Ecological Assessment Report	-	22 / 06 / 19
Badger Survey Report & Sett Closure Method Statement	-	22 / 06 / 19
Preliminary Bat Roost Assessment Report	-	22 / 06 / 19
Preliminary Otter Survey Report	-	22 / 06 / 19

Reason : For the avoidance of doubt.

3. Pre-commencement and post-development photographic surveys of the privately-maintained lane between Goodshaw Lane and the site access shall be submitted to and approved in writing by the Local Planning Authority; the pre-commencement survey shall be submitted prior to works commencing on site and the post-development survey shall be submitted prior to first occupation of the dwelling. The post-development survey shall include a scheme and timetable for reinstatement/repair of any damage to the privately-maintained lane between the pre-commencement and post-development

surveys. All agreed works of reinstatement/repair shall be completed at the developer's expense in accordance with the approved details and timetable.

Reason: In the interests of highway safety.

4. The parking and turning areas indicated on Drwg No 10322-L03 C shall be provided prior to the first occupation of the dwelling hereby approved, and shall be maintained and retained as such thereafter.

Reason: To avoid inconvenience or obstruction for other users of highways and public rights of way.

5. No development shall take place until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. The method statement shall provide full details in relation to proposed works in the root protection areas of trees on site, and shall include details of any necessary working practices and mitigation measures in line with BS 5837 (2012). The development shall thereafter be implemented in strict accordance with the approved details.

Reason: In the interests of protecting trees to be retained on site and to accord with the recommendations of the submitted Arboricultural Impact Assessment.

6. No development shall take place until tree protection fencing has been installed around all trees to be retained, in accordance with the recommendations of the submitted arboricultural impact assessment, and in compliance with BS 5837 (2012). The tree protection measures shall be retained for the duration of works on site.

Reason: In the interests of protecting trees to be retained on site.

7. No development shall take place until a suitably detailed plan showing how all drains and service runs will be sited to avoid the root protection areas of all trees to be retained on site has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: In the interests of protecting trees to be retained on site.

8. No works to trees or shrubs shall occur between the 1 March and 31 August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority.

Reason: To protect nesting birds.

9. Prior to any works on the site taking place a method statement detailing eradication and/or control and/or avoidance measures for Himalayan Balsam and Japanese Knotweed shall be submitted to and approved in writing to the Local Planning Authority. The approved method statement shall be adhered to and implemented in full unless otherwise agreed in writing by the Local Planning Authority.

Reason: To control the spread of invasive species.

10. No development (including site clearance/earth moving, or materials or machinery being brought on site) shall take place until a method statement to protect the Folly Clough Brook from accidental spillages, dust and debris has been submitted to and approved in writing by the Local Planning Authority. All measures shall be implemented and maintained for the duration of the construction period in accordance with the approved details.

Reason: To prevent pollution.

11. No development shall take place until it has been demonstrated (through the submission to and approval in writing by Local Planning Authority of a drainage scheme and a report by a suitably qualified ecologist) that there will be no negative impacts on the ecological status/potential of the Folly Clough Brook resulting from the disposal of foul water and surface water disposal post-development. The approved drainage scheme shall be implemented in full prior to first occupation of the dwelling.

Reason: In the interests of protecting biodiversity and preventing pollution.

12. Foul and surface water shall be drained on separate systems. Surface water shall be drained in accordance with the hierarchy of drainage options in national planning practice guidance. In the event of surface water discharging to public sewer, the rate of discharge shall be restricted to the lowest possible rate which shall be agreed with the statutory undertaker prior to connection to the public sewer.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

13. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. It shall provide for:

- i) The parking of vehicles of site operatives and visitors
- ii) The loading and unloading of plant and materials
- iii) The storage of plant and materials used in constructing the development

- iv) The erection and maintenance of security hoarding
- v) Wheel washing facilities
- vi) Measures to control the emission of dust and dirt during construction
- vii) A scheme for recycling/disposing of waste resulting from demolition and construction works
- viii) Routing and hours of delivery vehicles to/from site

Reason: In the interests of highway safety and to avoid inconvenience or obstruction for other users of highways and public rights of way.

14. All works of hard-landscaping, including means of enclosure, heritage interpretation boards and the community picnic/viewing terrace, shall be completed in accordance with the approved drawings prior to first occupation of the dwelling. All planting shown on approved Drwg No 412.04 A, and detailed in the approved Soft Landscape Specification, shall take place in the first planting season following substantial completion of the development, or first occupation of the dwelling (whichever is the earlier). Any plants which are removed, die, or become diseased within five years of planting shall be replaced with matching species in the following planting season unless a variation has first been agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

15. Notwithstanding any information submitted with the application, no development shall take place (except for demolition and enabling works as agreed with the LPA) until an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority; where potential risks have been identified by the Preliminary Risk Assessment a Phase 2 Site Investigation report shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development. The investigation shall address the nature, degree and distribution of land contamination on site and shall include an identification and assessment of the risk to receptors focusing primarily on risks to human health, groundwater and the wider environment. Should unacceptable risks be identified the applicant shall also submit and agree with the Local Planning Authority in writing a contaminated land remediation strategy prior to commencement of development. The development shall thereafter be carried out in full accordance with the duly approved remediation strategy or such varied remediation strategy as may be agreed in writing with the Local Planning Authority.

Reason: In the interests of preventing pollution and mitigating risks associated with land contamination.

16. Pursuant to Condition 15, prior to first occupation of the dwelling a Verification Report, which validates that all remedial works undertaken on site were completed in accordance with those agreed with the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of preventing pollution and mitigating risks associated with land contamination.

17. No development shall take place until samples of all materials to be used to construct external walls and the roof of the dwelling have been submitted to and approved in writing by the Local Planning Authority. The development shall otherwise be constructed using the facing materials referred to on Drwg No 10322-E01 B and Drwg No 10322-E02 A.

Reason: In the interests of visual amenity.

18. Immediately prior to the commencement of development :

- a) a suitably qualified Ecologist shall undertake a Badger Survey in respect of the application site and its surrounds; and
- b) a copy of this Badger Survey Report, and any necessary Badger Development Licence obtained from Natural England, shall be submitted to the Local Planning Authority for its approval.

No development shall take place until the above details have been approved in writing by the Local Planning Authority.

Reason: To safeguard protected species.