

<b>Application Number:</b>	2012/210	<b>Application Type:</b>	Full
<b>Proposal:</b>	Erection of 12 houses	<b>Location:</b>	Millgate Road / East Parade / Higher Mill Street, Rawtenstall
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	17 July 2012
<b>Applicant:</b>	B & E Boys	<b>Determination Expiry Date:</b>	31 July 2012
<b>Agent:</b>	Nicol Thomas Ltd		

<b>Contact Officer:</b>	Neil Birtles	<b>Telephone:</b>	01706-238645
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**REASON FOR REPORTING**

Tick Box

Outside Officer Scheme of Delegation

**Member Call-In**

Name of Member:

Reason for Call-In:

3 or more objections received

Other (please state):

**MAJOR**

**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.

<b>RECOMMENDATION</b>
<b>Approval, subject to the conditions detailed in Section 10 of the report.</b>

## 1. SITE

This application relates to a broadly rectangular plot of land, of approximately 0.25ha, with frontages to Millgate Road, East Parade and Higher Mill Street. It was previously occupied by buildings forming part of Higher Mill, but has been cleared of buildings, leaving it with a ground level which in places is approximately 2m lower than the surrounding land. It is at present largely screened from public view by temporary hoardings.

To the north side the site is bounded by a 2-storey building of traditional design/materials, which is a Grade II listed building; formally occupied by a restaurant it is now vacant and in the Applicants ownership. To the south of the site is an area that was also previously part of Higher Mill and the Applicant is in the process of building houses upon it; the first of them have been completed and sold, whilst others are yet to be started. On the opposite sides of East Parade and Higher Mill Street are terraces of houses.

The application site lies adjacent to Rawtenstall Town Centre, as designated in the Council's Core Strategy, and is just within the Rawtenstall Town Centre Conservation Area.

## 2. RELEVANT PLANNING HISTORY

### 2005/729 Erection of a 3-storey office building and 15 houses

The Applicant applied for and obtained planning permission in August 2007 for erection of 15 houses on the area to the south of site of the current application and for erection of a 3-storey office block on the site of the current application; by virtue of having commenced the houses the permission for the office block remains alive.

### 2011/400 Erection of 12 houses

No longer wishing to erect the office block, the Applicant sought permission by way of this application to erect 12 houses on the site.

Contrary to the Officer recommendation, the application was refused at the meeting of Committee held on 15 November 2011 for the following reasons :

1. It is considered that there has not been a suitably robust scheme of marketing to demonstrate that there is not/nor likely to be demand for this site to be used for office purposes and/or that the site is not suitable for such employment uses. Accordingly, it is considered that the proposal would reduce the amount of available employment land within the Borough in a suitable location for employment use, for which the Council already has a recognised shortfall. The scheme is therefore considered to be contrary to PPS1 / PPS4, Policies DP1-DP6 / W1 of the Regional Spatial Strategy and Policy 10 of the Council's Core Strategy DPD, regard also being had for extant Planning Permission 2005/729 and the Employment Land Study (2009) commissioned by the Council.
2. It is considered that the proposal is not of satisfactory design quality, most particularly as the scheme fails to maintain satisfactory window-to-window and window-to-gable spacing standards in relation to the existing terrace of houses to the west side of East Parade. The scheme is therefore considered to be contrary to PPS1 / PPS5, Policies DP7 / EM1

of the Regional Spatial Strategy and Policies 16/23/24 of the Council's Core Strategy DPD.

3. The application would result in the creation of new dwellings and does not accord with the Council's Open Spaces & Play Equipment Contributions SPD (2008), which sets out a requirement for a contribution towards recreational provision, in the absence of which the proposal is contrary to PPG17, Policies L1 / EM3 of the Regional Spatial Strategy and Policies 1 / 17 / 24 of the Council's Core Strategy DPD.

At the request of the Applicant, a meeting was subsequently arranged at which they sought elaboration from Officers, the Chair and Vice Chair of the reasons for refusal and also explained how they might seek to address them if submitting a further application for the Council to consider.

An Appeal against the refusal of Application 2011/400 has been lodged with the Planning Inspectorate.

### 3. THE PROPOSAL

Permission is again sought to erect 12 houses on the site. However, to address the Reasons for Refusal the applicant advises as follows :

#### Reason for Refusal 1

Marketing of the site to secure a Client for the permitted Office block or other new build Offices was continued with by their Estate Agent until March 2012 - long beyond the period suggested by the Council's policy guidance - without success. Their Estate Agent has advised them that *"any further, costly promotion would prove abortive as there is no market in Rawtenstall at the present time for new build offices, be that for small incubator units of say 500sq ft or the larger scale scheme originally envisaged"*.

The option of developing the site with some live-work units has been considered by their Estate Agent but is thought by them unlikely to achieve sales or viability - Banks and Building Society's would probably look for a 35-40% deposit in view of uncertainty of future resale. Accordingly, they *"discount 'live-workspace' as a possible option for Springside and deduce that your best opportunity for the next 3-5 years is some form of residential scheme"*. Another Property Consultant they have obtained advice from concurs that *"the chances of obtaining a mortgage on such properties, in current conditions, are virtually nil"*.

#### Reason for Refusal 2

To address the Council's concern that the previous scheme was not of satisfactory design quality, most particularly as it failed to maintain satisfactory window-to-window and window-to-gable spacing standards in relation to the existing terrace of houses to the west side of East Parade, the scheme now submitted has been amended. Most notably the new layout proposes :

- A terrace of 4 houses, rather than 2 pairs of semi-detached houses, facing Millgate Road; the distance between the front windows of 1-3 East Parade and the new gable has thereby been increased from 12.5m to 13m.
- Deletion of a garage to the side of one of the proposed houses to face Higher Mill Street; the distance between the front windows of 21-23 East Parade and the new gable has thereby been increased from 11.5m to 14m.

- A further pair of semi-detached houses to face houses in the middle of the existing terrace fronting East Parade has been pushed slightly further back; the window-to-window distance has thereby been increased from 16.5m to 17m.

### Reason for Refusal 3

The Council is wrong in seeking a planning obligation to secure payment of a contribution to comply with its Open Spaces & Play Equipment Contributions SPD for two reasons :

1. In the case of the current application (and the one at appeal), the Council are seeking a planning obligation to secure further payment to mitigate against development on a site for which a full mitigating payment has already been made (pursuant to the 2005 application).
2. The payment made pursuant to the obligation attached to the 2005 permission remains unspent. It follows that that development was acceptable on its own merits in planning terms and was not therefore necessary in the first place. It also follows that any similar obligation attached to the current application on the same site (and the one at appeal) is also not necessary and would similarly fail the tests set out in the Regulations.

The applicant has also said that :

- In addition to the residential consent sought, a significant amount of improvement works will be carried out to pavements and highways that follow the perimeter of the site. These works will benefit all users of this infrastructure and will be constructed in traditional materials in order to compliment the Conservation Area setting. The use of traditional materials comes at a significantly higher cost than that of contemporary copies.
- In order to create a completed residential concept for the site, if this application for residential consent is granted for the site, it gives a firm and unequivocal commitment to seek planning approval for the change of use of the existing listed building at Springfield Cottage from vacant restaurant to residential.

## **4. POLICY CONTEXT**

### **National**

#### National Planning Policy Framework (2012)

- Section 1 - Building a Strong Competitive Economy
- Section 4 - Promoting Sustainable Transport
- Section 6 - Delivering a Wide Choice of High Quality Homes
- Section 7 - Requiring Good Design
- Section 8 - Promoting Healthy Communities
- Section 10 - Meeting the challenges of climate change, flooding & coastal change
- Section 12 - Conserving & enhancing the Historic Environment

### **Development Plan**

#### Regional Spatial Strategy (2008)

- DP1-9 Spatial Principles
- RDF1 Spatial Priorities
- L1 Health, Sport, Recreation, Cultural & Education Services Provision
- L4 Regional Housing Provision
- L5 Affordable Housing

RT2	Managing Travel Demand
RT4	Management of the Highway Network
EM1	Environmental Assets
EM2	Remediating Contaminated Land

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

AVP4	Rawtenstall
Policy 1	General Development Locations & Principles
Policy 2	Meeting Rossendale's Housing Requirement
Policy 3	Distribution of Additional Housing
Policy 4	Affordable & Supported Housing
Policy 8	Transport
Policy 9	Accessibility
Policy 10	Provision for Employment
Policy 16	Preserving & Enhancing the Built Environment
Policy 22	Planning Contributions
Policy 23	Promoting High Quality Designed Spaces
Policy 24	Planning Application Requirements

### **Other Material Planning Considerations**

LCC Planning Obligations in Lancashire (2008)
LCC Historic Town Assessment Report for Rawtenstall (2006)
RBC Rawtenstall Town Centre Conservation Area Character Appraisal (2011)
RBC Employment Land Study by NLP (2009)
RBC Open Space & Play Equipment Contributions SPD (2008)

## **5. CONSULTATION RESPONSES**

### **LCC (Highways)**

No Objection, subject to various conditions to ensure provision/retention of the parking/garaging facilities proposed and the making-good/provision of carriageways/footways/lighting to an adoptable standard on the highways adjacent to the site.

### **RBC (En Health)**

A remediation scheme was agreed for the residential element of Planning Permission 2005/729 (including provision of ground-gas protection measures and a 0.6m deep clean-soil cover layer for gardens). It considers that a Condition is necessary to ensure the previously approved remediation scheme is implemented in respect of the site of the current application.

## **6. NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a press notice was published on 1/6/12, site notices were posted on 28/5/12 and the relevant neighbours were notified by letter on 28/5/12.

An objection has been received from the resident of a house on Grange Terrace, a property which faces towards the part of Higher Mill site with permission for residential development that is currently being built-out by the applicant. They object for the following reasons :

- The area has been spoilt by the houses already built, and the properties of existing residents de-valued.

- The erection of a 3-storey house opposite their house has caused them a significant loss of light and occupiers of the proposed houses will have no privacy or daylight, and traffic congestion around the area is already bad.
- The existing residents were left with no street lights on Higher Mill Street last winter due to the actions of the applicant and the cobbled surface of the road has also been damaged by them.

## 7. ASSESSMENT

The main considerations of the application are :

- 1) Principle; 2) Loss of Employment Land; 3) Housing Policy; 4) Visual Amenity/Heritage Interest; 5) Neighbour Amenity; 6) Access/Parking; 7) Open Space Provision & Other Financial Contributions.

### Principle

The site is located within the Urban Boundary of Rawtenstall, a Main Development Location, wherein the Council seeks to locate most new development. Furthermore, the site constitutes previously-developed land and is relatively near to Rawtenstall Town Centre.

Accordingly, the proposal is considered appropriate in principle.

### Loss of Employment Land

In respect of Application 2011/400 I advised Committee as follows on this matter :

*“On the Proposals Map of the Rossendale District Local Plan the application site was designated as a Proposed Employment site, for office/service industry development. However, Policy J2 was not a ‘saved’ policy.*

*The Council had Nathaniel Lichfield & Partners consider its suitability for employment development in 2009 as part of a Borough-wide Employment Land Study. It considered the location of the site to give it good access to local services, public transport and strategic road links and to have a reasonably high profile, though acknowledging it to be surrounded by residential development and local roads constrained by on-street parking. Having regard to on-going implementation of the mixed-use development permitted by Planning Permission 2005/729 it recommended that this site be retained for employment development.*

*The application is accompanied by documentation from chartered surveyors & property consultants that sets out how the site was marketed in the buoyant property market which existed in 2007/2008 for the permitted office development, without any expressions of interest being received. It goes on to say that now, and for the foreseeable future, there is/will be no demand for this site for any scale of office development, let alone the large-format office scheme for which permission exists.*

*I do not have reason to doubt this assessment of the likelihood of demand that will secure office development on the site and am also mindful of other sites the Council favours for large-format office development (eg New Hall Hey). Nor do I consider industrial development of this site would be appropriate having regard to*

*the surrounding residential development and standard of local roads, prominence the development would have in terms of the conservation area, etc. Accordingly, I do not consider it would be appropriate to refuse the current application in order to safeguard the site for employment purposes.”*

Since refusal of Application 2011/400 additional marketing of the site in order to secure its development for offices has been undertaken, without success. The applicant has also sought professional advice on whether some employment could be provided on the site through provision of some live-work units but they have provided cogent arguments as to why this will not be possible in the short to medium term.

Having regard to the stage to which the housing development on the applicants adjacent land has progressed, and desirability for the development of this site to promptly follow it on, I remain of the view that it would not be appropriate to refuse the current application in order to safeguard the site for employment purposes.

#### Housing Policy

The application site is located within a Main Development Location, wherein the Council seeks to locate most new housing development.

In respect of Application 2011/400 I advised that there was no requirement for any of the proposed dwellings to be provided as Affordable Housing, having regard to the Council's Interim Housing Policy Statement (2010). The IHPS has now been superseded by Policy 4 of the Core Strategy DPD (2011). It requires Affordable Housing to be provided on a brownfield site to be developed with over 15 dwellings. Accordingly, it remains the case that there is no requirement for any of the proposed dwellings to be provided as Affordable Housing.

I am satisfied that the scheme proposes dwelling types/sizes making for an appropriate mix in the area.

#### Visual Amenity/Heritage Interest

The submitted courtyard-layout will result in houses that face Millgate Road, East Parade and Higher Mill Street, whilst much of the parking/garaging to serve them is to be tucked behind the houses. Accordingly, the layout plays proper regard for the character of the area to the north and west sides, which lies within the Conservation Area. Indeed, the change from 2 pairs of semis to a terrace of 4 houses facing Millgate Road is more in-keeping with the character of the Conservation Area and Springside Cottage (the adjacent vacant restaurant/Listed Building).

Likewise, I am satisfied that the scale/design/facing materials of the proposed houses is in-keeping with the character and appearance of the area. Unlike the rest of the proposed houses, the houses to face south are not 'true' 2-storey buildings. However, by utilising a difference in levels across the site to accommodate an additional floor to the rear, their greater bulk and other design features will ensure they adequately reflect the character of the recently-built houses they will face.

#### Neighbour Amenity

The layout proposed in Application 2011/400 would have resulted in houses for the most part attaining the 13m window-to-gable and 20m window-to-window separation distances between existing and proposed dwellings normally sought. However, as the 17 terraced houses on the opposite side of East Parade sit on the back-edge of the footway, the separation distances between the gables of 2 of the proposed dwellings and 4 of the

existing terraced houses would fall 0.5m to 1.5m short of the distance normally expected and the separation distances between the front elevation of 2 of the proposed dwellings and 3 of the existing terraced houses would fall 3.5m short of the distance normally expected.

The layout accompanying the current application has distanced the 2 proposed gables sufficiently from the terraced housing fronting East Parade to meet/exceed the 13m separation distance normally sought.

Due to the way in which the level of the land falls away, and need to maintain adequate space within the rear courtyard for the parking/manoeuvring of vehicles, the applicant has managed to push the 2 houses proposed with front elevations facing the East Parade terrace only 0.5m further from it. Consequently the window-to-window separation distance between 2 proposed houses and 3 terraced houses will be 17m.

For these 2 houses to be pushed back sufficiently to attain in full the separation distance normally sought would, in my view, result in a form of development on the site less in-keeping with the character of the area/Conservation Area. Furthermore, the loss of light/outlook/overbearing that will result from the current proposal is less than that which would arise from building of the multi-storey office block previously permitted. Erection of this office block would result in a 3-storey flat-roofed building that presents to East Parade an elevation of 41m in length and between 10 and 11.6m in height. The proposed dwellings, though to stand somewhat nearer to East Parade than the office block, would have eaves heights no greater than 5.4m and ridge-heights no greater than 8m.

Access/Parking

The 12 houses now proposed will generate less traffic movements and need for less off-street parking than would the previously-permitted multi-storey office block (for which 77 parking spaces were proposed).

LCC Highways is satisfied that adequate off-street parking is being proposed to meet the needs of residents of the proposed development and their visitors.

**Open Space Provision & Other Financial Contributions**

Planning Permission 2005/729 was accompanied by a S.106 Agreement requiring that prior to commencement of development of the site the Council be paid £15,000 for improvement/maintenance of Mill Row Recreation Area and £3,000 towards the cost of a Traffic Regulation Order.

The Council's Open Space & Play Equipment Contributions SPD indicates that developments of 10 or more dwelling units should make a contribution of £1,366 per dwelling (amounting to £16,392 for the 12 houses now proposed).

The payment of £18,000 required by the S.106 Agreement accompanying Planning Permission 2005/729 has been received. As it has not yet been spent, and it is desirable to secure early completion of development on this site (in terms of the amenities of existing residential neighbours and the Conservation Area), I do not consider a further financial contribution should be sought. I am also mindful of the costs the applicant will incur in having to make-good/provide the footway/carrageway of Higher Mill Street from its junction with Newchurch Road in traditional materials (consistent with the Draft Rawtenstall Town Centre Conservation Area Character Appraisal).

Additionally, the applicant has offered to seek planning approval for the change of use of

the existing listed building at Springfield Cottage from vacant restaurant to residential if this application is granted. For Springside Cottage (a vacant Grade II listed building) to be converted back to a dwellinghouse without delay would be most welcome.

**9. SUMMARY REASON FOR APPROVAL**

The proposed development is appropriate in principle in the Urban Boundary of Rawtenstall and, subject to the Conditions, the resulting development will secure the regeneration of a derelict/brownfield site in a manner that goes some way towards meeting local housing needs and is in-keeping with the Rawtenstall Town Centre Conservation Area it lies within/adjacent Listed Building and will not detract to an unacceptable extent from neighbour amenity or highway safety. The decision has been taken having regard to the policies and proposals of the Regional Spatial Strategy and Core Strategy DPD.

**10. CONDITIONS**

- 1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason : Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

- 2. The development shall be carried out in accordance with the following drawings, unless otherwise required by the conditions below or first agreed in writing by the Local Planning Authority :

Location Plan	M3313.L1
Proposed Site Plan/Levels	M3313/PL.50
Plans / Elevations Plots 1-4	M3313.PL.51
Plans / Elevations Plots 5-6	M3313.PL.52
Plans / Elevations Plots 7-12	M3313.PL.53
Plans / Elevations Garages	M3313.PL.15

Reason: For the avoidance of doubt and to ensure the development proceeds in accordance with the permission sought.

- 3. The development hereby permitted shall proceed in accordance with the ground contamination 'Remedial Strategy' of Encia Consulting Limited agreed in respect of the residential element of Planning Permission 2005/729, incorporating the variations of Urban Vision (most notably 600mm of clean-soil cover in proposed gardens/soft-landscaped areas). Prior to occupation of any dwelling a Verification Report shall be submitted to the Local Planning Authority detailing the remedial & ground preparatory works undertaken to render the site suitable for the proposed development.

Reason : To ensure the site is properly remediated and any risk to human health and controlled waters is minimised, in accordance with Policy 24 of the RBC Core Strategy DPD (2011).

- 4. No development shall be commenced until samples of the facing materials and details of window-frames, external doors (including garage doors) have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken using the approved materials.

Reason: In the interests of visual amenity and to accord with Policies 16 / 23 / 24 of the RBC Core Strategy DPD (2011).

5. No part of the development shall be occupied unless and until its associated car manoeuvring and parking/garaging provision has been completed and is available for use. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, or any order amending or revoking or re-enacting it, the car manoeuvring and parking/garaging provision thereby provided shall be retained and kept available for use thereafter.  
Reason : To ensure the provision of adequate off-street parking/garaging facilities, in the interests of highway safety and to accord with Policies 8 / 24 of the RBC Core Strategy DPD (2011).
  
6. No development shall be commenced until a scheme has been submitted to and approved in writing by the Local Planning Authority detailing the works to be undertaken to make-good/provide footways/carriageways/lighting on Millgate Road (from its junction with East Parade to Newchurch Road), East Parade and Higher Mill Street to a standard adoptable by LCC(Highways), and the timetable for their completion. The approved scheme shall be undertaken in accordance with the timetable agreed.  
Reason : In the interests of highway safety and to preserve & enhance the character & appearance of Rawtenstall Town Centre Conservation Area, in accordance with Policies 8 / 9 / 16 / 23 / 24 of the RBC Core Strategy DPD (2011).
  
7. No development shall be commenced until a scheme of landscaping/boundary treatment has been submitted to and approved by the Local Planning Authority and the timetable for their completion. The submitted scheme shall include full details of : trees and shrubs to be planted; walls/fences/gates; hard-surfaced areas, their drainage and lighting; and any changes of ground level. The approved scheme shall be undertaken in accordance with the timetable agreed. Any trees or shrubs removed, dying or becoming seriously damaged or diseased within five years of planting shall be replaced in the next available planting season with others of the same siting/size/species unless otherwise agreed in writing by the Local Planning Authority.  
Reason : In the interests of visual amenity and to accord with Policies 16 / 23 / 24 of the RBC Core Strategy DPD (2011).
  
8. Any works of demolition/remediation/construction associated with the development shall not take place except between the hours of 8:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No works shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.  
Reason : To safeguard the amenities of neighbours, in accordance with Policy 24 of the RBC Core Strategy DPD (2011).
  
9. Notwithstanding the provisions Classes A-E of Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995, or any order amending or revoking or re-enacting it, no porches, extensions or outbuildings shall be erected without first applying for and obtaining Planning Permission.  
Reason : To protect the amenities of neighbours and the character and appearance of Rawtenstall Town Centre Conservation Area, in accordance with Policies 16 / 23 of the RBC Core Strategy DPD (2011).



