

Application Number:	2013/0090	Application Type:	Full
Proposal:	Erection of 22 houses and access courts, together with landscaping, stables and access to adjoining farm land	Location:	Kearns Mill & adjacent Lodge, Cowpe Road, Cowpe
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	23 July 2013
Applicant:	Skipton Properties Ltd	Determination Expiry Date:	26 July 2013
Agent:	JO Steel Consulting		

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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):	Departure / 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.

1. RECOMMENDATION

That Committee be minded to grant Permission subject to completion of a S.106 Obligation and the Conditions set out in **Section 10**.

2. THE SITE

The application site lies towards the southern end of Cowpe Road and is occupied by what remains of the complex of buildings making-up the former Kearns Mill and includes the mill lodge on its south side. The site has an area of approximately 1.7ha and has a 140m frontage to road on the north side and 190m frontage to road on the west side and to the south/east bounds to fields.

The mill chimney and some of the buildings have been demolished, leaving others of traditional design/materials that are in a state of decay and dereliction. The most substantial building remaining is of 3+storeys in height, sits over the outflow channel from the lodge that connects to Cowpe Brook (to the opposite side of Cowpe Road) and is visible as one approaches the site from the north down Cowpe Road. Another of its buildings is attached to the gable of the terraces of houses 1-11 Moor View. Other buildings that abut Cowpe Road have houses immediately opposite.

The buildings and their associated hardstandings are at a level significantly below the road running to the west side but are open to public view and of unattractive appearance, in stark contrast to the lodge; some of the trees near the western boundary of the site have the protection of a Tree Preservation Order.

The site is located in the Countryside.

3. RELEVANT PLANNING HISTORY

2005/519 Creation of 39 dwellings (by way of conversion/extension of the main mill building & building attached to 11Moor View, demolition of other buildings & erection of 20 houses)

Notwithstanding that the site is located within the Countryside, and the County Council advised that there was then an oversupply of housing land in the Borough, permission was granted due to the regeneration benefits the redevelopment of the site would deliver.

Permission was granted subject to a S.106 Agreement to secure payment of sums offered by the Applicant, namely :

- £39,000 towards Dial-a-Ride bus services
- £12,314 towards improvement of the Community Hall in Cowpe
- £19,000 towards traffic safety/calming works

2010/092 To extend the time limit by which implementation of Planning Permission 2005/519 must commence

In light of the increased annualised housing allocation for the Borough, and desire for a greater proportion of new housing to be on previously-developed land, arising from replacement of the Lancashire Structure Plan with the Regional Spatial Strategy, there was then a stronger case for permitting the residential development of this site.

The Council's Interim Housing Policy at that time indicated that 30% of the units proposed should be provided as Affordable Housing. However, Planning Permission 2005/519 did not require the provision of any Affordable Housing and Officers concluded that in the economic climate then prevailing it would not be appropriate for viability reasons to seek such provision. Accordingly, permission was granted for an extension to the date by which Planning Permission 2005/519 needed to be commenced to February 2012, the accompanying Legal Agreement providing for payment of the contributions previously agreed.

4. **PROPOSAL**

The Applicant advises that the first permission was granted prior to the recession and both permissions have now lapsed as unviable. They have purchased the site from the Receiver and seek permission for a scheme entailing :

- Conversion of the building attached to 11 Moor View to a 3-bedroomed dwelling and demolition of all other buildings on the site.
- Erection of 21 detached and semi-detached houses of 4 or more bedrooms, of varying house-types, to be arranged around two mews courts taking access directly from Cowpe Road - one of the access-points is a reconfiguration of the existing main entrance and the other is to be just to the east of the area of hardstanding to remain available as parking for houses on the opposite side of Cowpe Road. The proposed houses are to be constructed of natural stone, with artificial stone slate roof tiles, some of 2-storey (with integral, attached or detached garages) and others providing 2 floors of accommodation over garages.
- Erection towards the eastern boundary of the site of a 1-storey building that will provide stabling for two of the houses, to be constructed using the same facing materials as the houses and to take access from an existing steeply-sloping track. This track presently gives access to the adjacent fields, of 2.8ha, which are in the applicant's ownership.
- The lodge is to be retained and provided with a new spillway near to the western boundary. It and the land that bounds it are to be enhanced in terms of wildlife value and as a recreational resource available to residents of the proposed houses and local community.

The Agent advises that any requirement for Affordable Housing, or other contributions, would make an already marginal scheme unviable; they have submitted a Viability Appraisal they consider demonstrates this to be the case. However, the Agent has advised that the Applicant is willing to enter in to a S.106 Obligation that includes an 'overage' clause' that would mean any profit above the norm (ie 20%) would then be shared equally between them and the Council.

The Application is accompanied also by :

- Planning Statement
- Financial Appraisal
- Statement of Community Involvement
- Transport Statement
- Flood Risk Assessments
- Structural Report
- Remediation Report
- Design and Access Statement
- Landscaping Plan
- Archaeological Report
- Tree Report
- Ecology Reports

Structural Report

It concludes the main building on the site to now be beyond economic repair, having suffered considerably from the ingress of water, general weathering and lack of effective restraint between floors/roof and walls; the major culvert running beneath it and the culvert running parallel to its front elevation present major risks to it, and there is photographic evidence that flood water backs up against the rear wall and floods the rear of the building. With respect to the buildings that abut Cowpe Road it is said they too are now beyond economic repair; parts have already collapsed; the roof is no longer watertight and timbers supporting the roof and floors are in an advanced state of decay.

Remediation Report

Ground investigations identified elevated concentrations of inorganic contamination in made ground across the site as well as a number of localised areas of hydrocarbon contamination, generally presenting no significant risk to controlled waters or human health if left in situ and with a 0.6m cover of clean soil but in localised areas (with elevated concentrations of benzene) will require excavation and either treatment or removal from site.

Design & Access Statement

It states :

- Kearns Mill forms an enclave of urban development within a rural area. The submitted scheme will result in a development of no greater scale and will respect the immediate context provided by the nearby houses.
- The development is separated into two courtyard areas, with some houses also split-level, to reflect the topography of the site.
- Whilst providing to Cowpe Road a strong street-frontage, the Council's spacing standards are respected.
- Although the re-aligning the point at which the main entrance meets Cowpe Road in accordance with LCC Highways' wishes they will look to re-use/replicate the existing stone piers and "Kearns of Waterfoot" metal entrance gates.
- Regenerative vegetation that has grown-up within the site will be removed but the best of the mature trees that line boundaries are being retained.

Flood Risk Assessment

- The mill lodge and Cowpe Brook present a flood risk to the site and this needs to be adequately mitigated if housing development is to go ahead. To that end it recommends most importantly :
- Inspection and repair prior to development, and regularly thereafter, the lodge embankment.
- Diversion of the existing taking water from the lodge through the site as it appears in poor structural condition.
- For houses on Plots 1-9 a minimum floor level 0.3m higher than the surrounding ground, and for the other plots a minimum floor level 0.15m higher.

Tree Report

The site possesses 8 individual trees and 13 groups of trees. Of these 3 individual trees and 5 groups are recommended for removal for arboricultural reasons. Additional tree removal is proposed within the northern half of the site to enable construction of the proposed houses. However, the majority of the trees warranting retention (including the 3 trees with TPO protection are situated close to site boundaries and are proposed for retention; suitable protection should be given to them during construction works.

Ecology Reports

The part of the site to be redeveloped for residential purposes is largely of low ecological value, although bats were found to be roosting in 2 buildings and possibly the culvert. The southern half

of the site is of high ecological value, the lodge and its surrounds designated a County Biological Heritage Site. Before demolition/development can proceed a European Protected Species Licence will need to be obtained in relation to the bats; alternative bat-roost provision will need to be made available in the building to be converted to a dwelling prior to demolition of other buildings. A range of bird and bat boxes could also be incorporated into the other houses proposed. Clearance of vegetation and buildings will need to avoid harm to nesting birds. Precautions will need to be taken to avoid badgers entering the development site during works. The mill lodge will require protection during construction works and its ecological interest should be enhanced through the implementation of a long-term management plan.

5. **POLICY CONTEXT**

National

National Planning Policy Framework (2012)

Section 1	Building a Strong Competitive Economy
Section 3	Supporting a Prosperous Rural Economy
Section 4	Promoting Sustainable Transport
Section 6	Delivering a Wide Choice of High Quality Homes
Section 7	Requiring Good Design
Section 8	Promoting Healthy Communities
Section 10	Meeting the Challenges of Climate Change, Flooding, etc
Section 11	Conserving and Enhancing the Natural Environment
Section 12	Conserving and Enhancing the Historic Environment

Development Plan Policies

Rossendale Core Strategy DPD (2011)

AVP 3	Waterfoot, Lumb, Cowpe & Water
Policy 1	General Development Locations and Principles
Policy 2	Meeting Rossendale's Housing Requirement
Policy 3	Distribution of Additional Housing
Policy 4	Affordable & Supported Housing
Policy 8	Transport
Policy 9	Accessibility
Policy 17	Rossendale's Green Infrastructure
Policy 18	Biodiversity and Landscape Conservation
Policy 19	Climate Change and Low & Zero Carbon Sources of Energy
Policy 21	Supporting the Rural Economy and Its Communities
Policy 22	Planning Contributions
Policy 23	Promoting High Quality Design & Spaces
Policy 24	Planning Application Requirements

Other Material Planning Considerations

LCC Planning Obligations in Lancashire (2008)

RBC Open Space & Play Equipment Contributions SPD (2008)

6. **CONSULTATION RESPONSES**

RBC (Environmental Health)

No objection.

Agree with the recommendations of the contaminated land study that further investigations are required in order to determine the remediation measures required and ensure they are followed.

Recommend hours of work during demolition/remediation/construction and deliveries be limited to:

- Monday to Friday 0800 -1800
- Saturday 0800 - 1300

At no times on Sundays or Public Holidays

Recommend a dust management plan is in place and that no burning takes place on site during the development phase.

Environment Agency

- In the absence of an acceptable Flood Risk Assessment (FRA) **object** to the grant of planning permission and recommend refusal on this basis for the following reasons :

The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

With reference to the FRA by Paul Waite Associates (11162/I/01/A) the assessment has broadly outlined the potential risks associated with development of the site. However, as the application is in full we have comments regarding some aspects of the FRA and would recommend that further clarification be sought in relation to the following:-

- Assessment of flood flows from Cowpe Brook and risk to the site appears to be based on a current maximum flow over the spillway adjoining the site rather than any hydrological assessment related to event return periods. The assessment of existing culvert capacity based on normal depth calculation is simplistic and does not allow for inlet/outlet losses etc. However, if the proposal involves complete replacement of the culvert this is not critical.
- What is clear is that the adjoining mill pond and existing/proposed culvert through the site do pose a risk. Section 4.1.7 suggests that overall risk from the mill pond bank embankment failure is low. On the basis that the existing spillway has recently been in a state of collapse and required emergency repair, this may be an optimistic statement. Section 6.16 states that flows to Cowpe Brook are controlled at the upstream main reservoir. This would be the case under normal circumstances but the reservoir would appear to have a bypass channel and flows would be passed downstream uncontrolled when the reservoir is full.
- The FRA does outline that the mill pond embankment should be inspected and improved where necessary and that a new spillway is proposed. The performance of the pond and proposed new spillway should be assessed in accordance with Ciria report R161 "Small Embankment Reservoirs". Based on there being properties at risk if bank failure occurs, the proposed spillway should be designed to pass the maximum flow as outlined in the Ciria report (section 7). The embankment crest freeboard should also be considered to ensure overtopping of the crest would not occur.
- With regard to the new culvert, the current proposed route appears different on the plan 3901-005/PL03 to that in the FRA. However, both routes include sharp changes in direction and this is not good practice in terms of conveying high flows. The FRA states that the EA will require a trash screen on the culvert inlet. The EA will not insist on this

either way. The need for a screen will be a matter for the designer to address when giving consideration to risk of debris and also whether there would be a need to prevent access to the culvert. If a culvert screen is deemed necessary, it must be designed to have minimal impact on flow characteristics and be accessed safely. There must also be an inspection and maintenance regime in place to keep the screen clear of debris. The issue of potential overland flow in the event of culvert blockage must be considered. The levels on the proposed layout suggest that plots 1-9 would not have much protection from overland flows as their floor levels are not significantly above the shared drive level. Section 5.3 of the FRA suggests that floor levels should be 150mm above external levels. We would recommend that this is increased when assessed in relation to the potential overland flow route.

With reference to the section relating to surface water drainage, table 6 refers to climate change of 20% being considered in the design. Referring to the NPPF Tech Guide, table 5 indicates that rainfall intensities could increase by up to 30% beyond 2085. Assuming the proposed housing has at least 100yr design life, the climate change allowance for drainage assessment should be 30%.

Overcoming our objection:

The Developer may be able to overcome our objection by submitting an FRA which clarifies the matters raised above and demonstrates that the development will be safe.

We will be pleased to comment further on receipt of additional information.

AN AMENDED FRA HAS BEEN SUBMITTED BY THE APPLICANT THAT SEEKS TO OVERCOME THE EA OBJECTION; EA COMMENTS UPON IT ARE AWAITED.

United Utilities

No objection to the proposal provided that the following conditions are met :

Drainage Conditions

- no surface water from this development is discharged either directly or indirectly to the combined sewer network
- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the nearby watercourse to meet the requirements of the National Planning Policy Framework (PPS 1 (22) and PPS 25 (F8)) and part H3 of the Building Regulations

Water

A domestic water supply can be made available to the proposed development.

Electricity NorthWest

No objection, but advises that it has apparatus in the vicinity of the site which may be affected. Where development is adjacent to operational land the applicant must ensure that it does not encroach either on the land or any ancillary rights of access or cable easements. The applicant should be advised that great care should be taken at all times to protect both the electrical apparatus and any personnel working in its vicinity.

LCC Highways

No objection to the above planning application on highway grounds subject to the following amendments.

There should be a turning head to the west of plots 3 and 4 to allow a refuse vehicle to turn and exit in forward gear; the current layout would mean that a refuse vehicle has to reverse a distance of approximately 50 metres which is not acceptable.

A footway should be provided along the south side of Cowpe Road between the new access points to provide a refuge for pedestrians at the narrowest section of Cowpe Road.

Conditions

The roads should be built to adoptable standards and the palette of materials should be agreed with the Highway Authority.

The construction details of the proposed culvert beneath the new access road should be submitted to and approved by the Highway Authority prior to any construction works. The applicant should make early contact with the Highway Authority to seek advice on the fees, timescales and legal agreements.

There should be nothing erected or planted within the visibility splay higher than footway level.

Contributions

A contribution of £64,550 is requested to improve safety/accessibility for pedestrians and cyclists from the site to Waterfoot.

Understanding that the applicant is seeking to argue that for viability reasons they are unable to meet all requests for contributions, it would advise that in the interest of highway safety it would request a contribution of £10,000. This would cover the provision of new 'pedestrians in road' warning signage on Cowpe Road and a 20mph speed limit order on part of Cowpe Road and the development access roads. The 20mph speed limit will be subject to a statutory process including a public consultation and its implementation cannot be guaranteed.

LCC Education

This consultation response seeks to draw the Council's attention to impacts associated with the above development and propose mitigation for these impacts through a planning obligation. The contribution described is directly linked to the development described above and would be used in order to provide education places within a reasonable distance of the development (within 3 miles) for the children expected to live on the development.

The latest information available at this time was based upon the 2013 annual pupil census and resulting projections.

Based upon the latest assessment, LCC seek a contribution for 8 primary school places. Calculated at the current rates, this would result in a claim of £11,880.45 per place = **£95,044**

Failure to secure the contributions sought would mean that the County Council cannot guarantee that children living on this development would be able to access a school place within a reasonable distance from their homes.

LCC Archaeology

Having regard to the recording of the site in 2008, and the submitted Archaeological Record, it has no comments.

LCC Ecology

The main ecological issues arising from the proposal include potential impacts on :

- Local Sites (Biological Heritage Sites).
- European protected species (bats, great crested newts, otters).
- Protected species (water vole, breeding birds, white clawed crayfish, badgers)
- Habitats of Principal Importance (hedgerows, ponds).
- Habitat connectivity.
- There is also a risk that invasive species could be spread.

Unfortunately it appears that the applicant has submitted insufficient information (biodiversity impacts) to enable determination of the application at this time. It is not clear that impacts on biodiversity would be adequately avoided, mitigated or compensated. It is not clear that the proposals are in accordance with the requirements of relevant biodiversity legislation, planning policy or guidance.

The following matters will need to be addressed before the application is determined :

- Further bat survey of the culvert is required to establish potential impacts and to inform the need for mitigation and compensation;
- Further surveys for protected species (otters, great crested newt, water vole, badger, white-clawed crayfish) should be submitted, together with proposals for mitigation and compensation if impacts are unavoidable.
- The applicant should be required to demonstrate that adequate mitigation and compensation for impacts on biodiversity can be delivered as part of these planning proposals.

Once these matters have been addressed, planning conditions (or section 106 agreement) will be required to secure mitigation and compensation for impacts on biodiversity.

The applicant should be made aware of the following matters :

- Licences from Natural England may be required if protected species will be affected.

Lancashire Constabulary

Within the immediate area, crime levels in the last 12 month period are low, however they include burglary, criminal damage, theft, and auto crime.

- Parking is situated to the front of the properties which reduces the risk of auto-crime.
- The properties are orientated in such a way that natural surveillance is optimised.
- Low stone walls to property frontages will provide defensible space, although it is unclear if all properties will benefit from this feature.
- The DAS states that black GRP doors will be used and that this meets secured by design guidance –clarification would be needed if this development is applying for Secured By Design.

- Lockable gated access should be installed to restrict unauthorised access to the vulnerable rear of the properties. Most dwelling burglaries occur at the rear of the properties.
- Intruder alarms compliant with BS EN 50131 & PD6662 OR BS 6799 should be installed, or a 13 amp non switched fused spur.
- Good street lighting is essential to enhance natural surveillance within the development, dark areas and pooling should be avoided. The stable area would benefit from some lighting for safe use during the winter months.
- Access to the stables between plots 19/20 should be restricted to safeguard anyone working alone in this area. It may be advisable, depending on ground levels, to take the rear garden boundary fence up to the stable building shell rather than have a fenced pathway around it.

7. **NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a press notice was published, site notices were posted and 32 letters were sent to neighbours on 12/4/13.

Seven people have responded, a couple supportive of redevelopment but with concern about the proposed scheme and the others objecting. They make the following points :

- As much as I would like to see something done with this site I do not feel this development is right for Cowpe Village.
- There are enough houses in Cowpe and do not want any more traffic driving up and down Cowpe Road.
- Very much welcome redevelopment of the mill site, but the density of development/height of buildings is a bit high, would wish the scheme to incorporate measures to make it more wildlife-friendly and have concerns they will wish to develop the adjacent fields.
- Cowpe Road is already in a bad state of repair which will be made worse by construction traffic and there will be noise/disturbance while construction work is in progress.
- Cowpe Road narrows/has poor visibility at bends and construction lorries/more cars will add to the dangers.
- Traffic generated by the new houses will cause further difficulties passing other vehicles at points on Cowpe Road.
- Parking restrictions are required to ensure emergency vehicles can reach the upper part of Cowpe.
- Residents of Moor View already experience difficulties as most have no where else to park other than on the road.
- There is a need to ensure that the welfare of children - indeed all pedestrians - are safeguarded as they walk up and down Cowpe Road; it is notoriously dangerous, with no pavement in many places - while there may not be room for a footway it would be possible to slow traffic down with measures sympathetic to Cowpe's rural character.

- The applicants Design and Access Statement makes no reference to cycle access or storage; LCC should be asked to include Cowpe Road in its '20mph Area' programme as it is the only access route from the site for children walking/cycling to Bacup & Rawtenastall Grammar School & Waterfoot Primary School and also serves the Pennine Bridleway and Valley of Stone Greenway.
- The old drainage system will be unable to cope.
- Concerned about maintenance of the lodge and that demolition/construction works will add to the risk of flooding.
- Believe sewage system on Cowpe Road is at its capacity.
- Will decrease the privacy of neighbours.

8. **ASSESSMENT**

The main considerations of the application are :

1) Principle; 2) Housing Policy; 3) Visual Amenity; 4) Neighbour Amenity; 5) Access/Parking; 6) Contamination/Drainage; & 7) Planning Contributions.

Principle

The site lies within Countryside, wherein there is a presumption against the erection of housing except in limited circumstances. The previous permissions provided for conversion of existing buildings to dwelling units that were not contrary to this presumption. They also provided for erection of broadly the same number of new houses as now proposed. Telling in favour of the earlier proposals was not simply that the land to be occupied by the new houses was 'brownfield', but that it was occupied by derelict buildings of unsightly appearance. I have no reason to doubt that the building then to be converted, and the other buildings proposed for demolition, have further deteriorated and are now beyond economic repair.

This application provides an opportunity to secure removal of buildings of deteriorating condition and appearance, remediation of the site and long-term management of the mill lodge in the interests of wildlife and remove future flood risks arising from it.

The site was not designated as an Employment site in the Local Plan and is not protected as such by the Core Strategy. Having regard to the standard of the approach road, and relatively remote/rural area in which the site is located, I do not consider that there are grounds for resisting residential redevelopment in order that the site is available for employment purposes.

Housing Policy

Policy 4 of the Council's Core Strategy states that 20% of the proposed units on 'brownfield' sites to be developed with more than 15 dwellings should be provided as Affordable Housing. Having regard to the relatively remote location of the site the Council's Regeneration Delivery Manager advises that they would favour receipt of monies to provide Affordable Housing elsewhere rather than receipt of units on-site.

The Applicant has indicated that for viability reasons no Affordable Housing can be provided and has submitted a Viability Appraisal to substantiate this; this matter is returned to below.

Contamination / Flood Risk

Officers concur with the recommendations of the submitted Ground Condition Report that further investigations are required in order to determine the remediation measures/foundation design required. Likewise, your Officers are satisfied that there is a means of resolving the flood risk issues of concern to the Environment Agency; it did not object to permission being granted previously when a greater number of dwelling units were proposed for the site.

The applicant has submitted an amended Flood Risk Assessment they consider to satisfactorily address the Environment Agency's concerns. Its comments are awaited. Permission cannot be granted unless it withdraws its objection.

Visual Amenity

Erection of 2/3 storey houses on the site, at the density proposed, is considered appropriate having regard to the scale and form of the buildings to be demolished. Likewise, the intended Layout is generally considered appropriate, resulting in no greater spread of buildings than previously permitted and similarly proposes houses be served off 2 accesses from Cowpe Road. The proposal will materially alter the appearance of the site, particularly as viewed at close-quarters from Cowpe Road (and the terrace of houses opposite), but will result in buildings with greater setback from the highway. The development could not do otherwise than change the industrial character and appearance of the site to residential. However, in terms of facing materials, and detailing of the houses and boundary treatments intended, seeks to respect the locality.

Neighbour Amenity

Separation distances between the proposed houses and all houses neighbouring the site are acceptable. The building intended for conversion, which is attached to 11 Moor View, will not result in materially greater overlooking/loss of light than does the existing building. For houses on the opposite side of Cowpe Road that face towards the site, new development will site behind their own parking area. Accordingly, whilst outlook from these properties will markedly change I do not consider this change to be for the worse.

Access / Parking

The Highway Authority is satisfied that the local highway network can accommodate the additional traffic the development will generate and with the intended road layout and parking provision, subject to Conditions and off-site works costing £10,000. I concur with its view about the need for these off-site highway works.

This figure reflects the costs of traffic calming/ traffic safety works it considers necessary, rather than the £64,550 initially sought to also address accessibility issues (calculated in accordance with the LCC Planning Obligations in Lancashire).

Planning Contributions

The Agent advises that for viability reasons the Applicant is unable to provide any Affordable Housing, or other contributions, as this would make an already marginal scheme unviable. However, the Applicant is willing to enter in to a S.106 Obligation that includes an 'overage' clause' that would mean any profit above 20%) would then be shared equally between them and the Council.

To fully accord with Policy and requests for contributions would require the following :

- 20% of the units as Affordable Housing
- £30,052 as Open Space & Play Equipment Contribution

- £64,550 as requested by LCC Highways to improve safety/accessibility
- £95,044 as requested by LCC Education for 8 primary school places

Having regard to the buildings to be demolished, need for site remediation and to address flood risks arising from the mill lodge & Cowpe Brook, this was/is never going to be an easy or cheap site to redevelop.

Accordingly, I do not doubt the Agent when they say that to require all the above contributions would make the scheme unviable. The cost of meeting all the above requirements far exceeds the cost of meeting the S.106 requirements of the previous Planning Permissions (as they did not involve Affordable Housing or an Education contribution) and those permissions were allowed to lapse without implementation.

I do not consider it necessary for the Applicant to pay the sum of £30,052 as an Open Space & Play Equipment Contribution so long as the Applicant is willing to commit themselves to long-term management and maintenance of the mill lodge and its surrounds for the benefit of wildlife and as a recreational resource for residents of the development and locally.

Likewise, with respect to LCC requests for contributions I do not consider it appropriate to require payment of more than the £10,000 LCC Highways says is necessary for off-site traffic calming/ traffic safety works.

However, having considered the submitted Viability Assessment, the Council's Regeneration Delivery Manager has queried the price it suggests the proposed houses will be sold (considering it low) and at present there remains uncertainty about the costs which will be incurred in site remediation and addressing flood risks (Environment Agency comments on the proposed solution are still awaited). This being the case, there is reason to doubt the profit figures contained within the submitted Viability Assessment. Whilst the offer of an 'overage' agreement would in principle address this matter, to split any additional profit over 20% on an equal basis is not considered appropriate - Officers consider the lion's share of any additional profit should be paid to the Council as it is being asked to grant permission with a relaxation from the contributions that would otherwise be required.

9. SUMMARY REASON FOR APPROVAL

Notwithstanding that the application proposes the erection of houses in the Countryside, subject to the Conditions and accompanying S.106 Obligation, the Council is satisfied that the proposal will have overriding cumulative remediation/regeneration benefits and would not unduly detract from the character and appearance of the Countryside, neighbour amenity, public and highway safety, archaeology or ecology.

10. RECOMMENDATION

That Committee be minded to grant Permission subject to :

- The Environment Agency withdrawing its objection.
- The completion of a S.106 Obligation to secure : a) payment of £10,000 for off-site traffic calming/ traffic safety works; b) payment of a sum up, to but not exceeding, the Affordable Housing requirement of Policy 4 of the Core Strategy in the event of 'additional profit' calculated on the basis of a Viability Appraisal and formula to be

agreed; & c) suitable arrangements being agreed upon for the long-term management and maintenance of the mill lodge and its surrounds for the benefit of wildlife and as a recreational resource for residents of the development and locally.

- The Conditions below.

That Officers have authority to Refuse the application in the event that by 30/8/13 the Environment Agency has not withdraw its objection &/or the S.106 Obligation has not been completed in a satisfactory form.

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. Prior to commencement of development the following shall be submitted to the Local Planning Authority:

- a) A Contaminated Land Phase II Report to assess the actual/potential contamination risks at the site for approval by the Local Planning Authority.
- b) Should the approved Phase II Report indicate that remediation is necessary then a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority.
- c) The remediation scheme in the approved Remediation Statement shall then be carried out and a Site Completion Report detailing the action 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 first occupation of any part of the development hereby approved.

Reason: To ensure development of the site proceeds in a safe and satisfactory form, having regard to the findings of the submitted Site Remediation Report, to accord with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

3. Prior to commencement of development full details of a scheme for the mitigation of risk from flooding and for the provision for a surface-water drainage (with foul water to drain to a separate system) shall be submitted to the Local Planning Authority. Development shall not commence until the details have been approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved details.

Reason: To reduce the danger from flooding, and to accord with the submitted Flood Risk Assessments, the advice of the Environment Agency/United Utilities, and Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

4. Prior to commencement of development full details of the measures to be taken for the avoidance/mitigation of harm to wildlife shall be submitted to the Local Planning Authority. Development shall not commence until details of the measures to be taken have been approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved details.

Reason: To ensure development of the site proceeds in a safe and satisfactory form, having regard to the findings of the submitted Ecology Report/Bat Survey, the advice of LCC Ecology and to accord with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

5. No development shall take place until samples of the facing materials to be used in the construction of the buildings hereby permitted have been submitted to and approved in

writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason : In the interests of visual amenity, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

6. Prior to the commencement of development on site, the applicant shall submit the Local Planning Authority for their approval, a scheme detailing renewable energy facilities within the development hereby approved. The renewable energy facilities shall be implemented in accordance with approved scheme and thereafter maintained.

Reason : In order to encourage the use of renewable energy sources in accordance with Policy 19 of the Council's adopted Core Strategy DPD (2011).

7. Prior to commencement of construction of the stables building full details of its floor level, design, facing materials and any associated hardstandings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.

Reason : In the interests of visual and neighbour amenity, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

8. Prior to commencement of development a scheme of landscaping and boundary treatment shall be submitted to the Local Planning Authority to include details of : retaining walls/boundary walls/fences/gates/hard-surfaced external areas; measures for the protection of trees to be retained and removal or the long-term management / control of Japanese knotweed; trees to be retained and proposed planting; & for protection mill lodge during construction works and enhancement of its ecological interest/recreational value through the implementation of a long-term management plan. Any retaining walls/boundary walls/fences/gates/hard-surfaced external areas forming part of the approved scheme shall be completed prior to first occupation of the dwelling they relate to/are nearest. Any measures for the protection of trees to be retained forming part of the approved scheme shall be complied with for the duration of ground works / construction works associated with the development hereby approved. Any planting forming part of the approved scheme shall be carried out in the following planting season and any trees or shrubs removed, dying or becoming seriously damaged or diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size or species, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will be of satisfactory appearance, in accordance with Policies 1 and 23 of the Council's Core Strategy DPD (November 2011).

9. Prior to first occupation of any of the dwelling units hereby permitted the new access, road and associated footways shall be constructed, drained, surfaced and illuminated in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, unless otherwise first agreed in writing by the Local Planning Authority.

Reason : In the interests of pedestrian and highway safety in accordance with Policies 1 and 24 of the Council's Core Strategy DPD.

10. Prior to first occupation of any of the dwelling units hereby permitted the proposed parking areas shall be constructed, drained and surfaced in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, unless otherwise first

agreed in writing by the Local Planning Authority. Thereafter these parking areas shall be kept freely available for the parking and manoeuvring of cars at all times.

Reason : In the interests of pedestrian and highway safety in accordance with Policies 1 and 24 of the Council's Core Strategy DPD.

11. Prior to the commencement of development a Site Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Site Construction Plan shall include details of : the vehicle wheel-cleaning facilities; construction traffic parking; & construction compound location. The approved Site Construction Plan shall be implemented and adhered to throughout the remediation/construction period.

Reason: To protect the amenities of neighbours and in the interests of pedestrian/highway safety, in accordance with Policies 1 and 24 of the Council's Core Strategy DPD.

12. Any ground works / construction works associated with the development hereby approved shall not take place except between the hours of 7:00am and 7:00pm Monday to Friday and 8:00am and 1:00pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays. Any piling for foundations shall be by the shell-and-auger method, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of neighbours, in accordance with Policies 1 and 24 of the Council's Core Strategy DPD.