

<b>Application Number:</b>	2013/0256	<b>Application Type:</b>	Full
<b>Proposal:</b>	The construction of 15 detached dwellings with a new access from Burnley Road. Access and infrastructure works to resident's allotments and infrastructure and facilities including growing houses and a community education building for a community allotment and garden scheme	<b>Location:</b>	Land opposite 1001-1037 Burnley Road, Loveclough
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	9 October 2013
<b>Applicant:</b>	Mr K Howieson	<b>Determination Expiry Date:</b>	13 November 2013
<b>Agent:</b>	GL Consultancy		

<b>Contact Officer:</b>	Richard Elliott	<b>Telephone:</b>	01706-238639
<b>Email:</b>	planning@rossendalebc.gov.uk		

<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	
<b>Other (please state):</b>	<b>Departure / Major / Council Land</b>

## 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 refuse permission for the reasons set out in Section 9.

## **2. SITE**

This application relates to a site of approximately 0.9 hectares of land located to the west side of Burnley Road (A682), opposite its junction with Goodshaw Avenue North. The land slopes down from a drystone wall on the 60m frontage with the main road and is for the most part under grass. Immediately to the south is a rectangular parcel of land abutting Burnley Road, used as an allotment, but not within the application site or the applicant's ownership. Lying just within the southern boundary of the application site is an unmade private track giving access to a **Council owned** garage colony, presently un-used. To the north of the site is Loveclough Sports Pitch

The Applicant owns approximately a third of the application site, whilst the remainder is owned by the Council.

Whilst the houses on the opposite side of the main road lie within the Urban Boundary, land to the west of Burnley Road (including the application site) does not - it is designated as Countryside. The open land here forms part of a distinctive gap in built-development between No.974 and No.1162 Burnley Road, the way in which it falls away from the main road ensuring that there are open views across it to the hills rising to the west.

Approximately 350m to the north-west, at a lower level than the application site, is the modern Penny Lodge Lane housing development at the foot of Commercial Street; permitted in 2002 in the Countryside as a re-development of a previously-developed occupied by a former mill site.

## **3. RELEVANT PLANNING HISTORY**

None.

## **4. PROPOSAL**

Permission is sought to:

Erect 15 detached 4-bedroomed houses, to be of 2-storey stone and slate construction, grouped around a new cul de sac connecting directly to Burnley Road. Each would have off street parking and front and rear gardens. The land would be regraded such that the dwellings would sit lower than the existing land levels.

Provide infrastructure and enabling works for allotments (Phase 1) and a community garden facility on the Council-owned land to the west of the proposed houses, to be accessed via the unmade private track giving access to the garage colony.

The applicant has submitted Heads of Terms, including improvement of the access track by provision of a passing-place near to Burnley Road, car parking/roads/paths for allotment users & a clean water supply. In addition they are willing to undertake the provision and construction of the following as a second phase: a community education building, growing houses, compost toilet and photovoltaic panels and mesh security fencing around the allotment site.

As part of the scheme the applicant proposes to construct a pelican-crossing to the north of the residential site access, to provide safe crossing facilities for those on foot travelling to/from the houses and other facilities being proposed.

- A Design and Access Statement accompanying the Application indicates that the houses have been designed having regard to the topography of the site and take account of wider views in and out of the site. Only two houses would be sited with a direct aspect to Burnley Road and these would be at a lower level. The houses would have a minimal impact on wider views to the west of Burnley Road.

- The Supporting Planning Statement concludes that:
  - The Council's own allocation of sites recognises there should be new housing development in Loveclough
  - The site is brownfield , not open countryside - besides the garage colony, the site was once used as a coal staith
  - This in an area of excellent desirability/good transport links and (unlike many of the site in Council's 5-year Housing Land Supply) is suitable for quality family housing and immediately available
  - The Loveclough Working Men's Club permission sets a precedent for residential development of this site in the Countryside
  - If approved it would not only benefit the community but would virtually prevent any other residential development in Loveclough
  - The houses will be constructed to a much higher level of the Code for Sustainable Homes that those in the area or the majority of new housing in Rossendale
  
- The Phase One Contaminated Land Report concludes that:
  - There is some contamination of the site. However, not such as would prevent residential development, subject to further reports and remediation, which could be conditioned on any planning approval.
  
- The Transport Assessment concludes that:
  - The scheme is predicted to result in a maximum increase of only 9 two-way vehicle movements in the AM peak hour on Burnley Road, the effect of which would be imperceptible in terms of local amenities or road safety.
  - The site has a reasonable level of accessibility by non-car modes of Transport; pedestrian and cycle facilities and amenities in the area are good, and the site is located within a reasonable walking distance of bus stops with a 20-30 minute service.
  
- An Ecological Survey concludes that:
  - There is a possibility that badgers may move on to the site prior to the development, therefore a further badger survey must be conducted prior to the commencement of construction
  - The pond to the north west of the site is considered excellent for suitability to support Great Crested Newts, as is the surrounding habitats present within the site. It is recommended that presence/absence surveys for Great Crested Newts are conducted at the pond.
  - Implementation of recommendations within the report will ensure that the proposed development will secure opportunities to enhance the biodiversity of the site and the local area.

## 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 4 Loveclough
- 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 18 Biodiversity and Landscape Conservation
- Policy 19 Climate Change and Low & Zero Carbon Sources of Energy
- 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 (Forward Planning)**

Recommend Refusal

The scheme is a major development (over 10 houses) in the Countryside. The land involved is primarily greenfield. It is therefore contrary to Policy AVP4 which protects open land to the west of Burnley Road and resists major greenfield development.

The development will read as “isolated” development on this side of Burnley Road as there is a clear gap between the properties north of Goodshawfold Lane. In design terms (Core Strategy Policy 23) it is for large detached dwellings in a suburban layout which, despite the use of stone does not relate well with the predominant linear terrace/semi-detached configuration on the opposite side of Burnley Road. Proposed construction of the dwellings to a higher level than current Building Regulations is however welcomed as this is in line with policies 19, 23 and 24 of the Core Strategy.

If the argument is accepted that the land is primarily greenfield then 30-40% of the proposed units should be made available as Affordable Housing. The Scheme does not provide this. Given the high levels of house prices in this part of the Borough this is particularly relevant.

The creation of allotments and related infrastructure would be desirable and would be in accordance with Policy 17 of the Core Strategy. With respect to paragraph 204 of NPPF however it is difficult to argue that they are necessary and directly related to the proposed development, particularly as there is already an alternative proposal for their provision without the housing.

Overall, it is recommended that the proposal be refused on Policy grounds.

### **RBC (Environmental Health)**

No objection subject to two conditions, one requiring a Phase II contaminated land investigation/site remediation and the other regulating construction working hours.

### **LCC (Highways)**

In principle, no highway objections to this planning application.

The site will require a new access to be constructed onto Burnley Road but at this point visibility is good so there will be no issues with this. There are also not any issue with the land levels at the site for the proposed access point. Given that the development is for 15 houses the Highway Authority would expect that some of the internal roads to become adopted highway.

The submitted plan shows a number of other highway works are to be carried out external to the site, which will need to be pursued should planning permission be granted.

To the rear of the residential units it is proposed to create an area of allotments with vehicular access and parking. This will use an existing access to the site off Burnley Road that is currently used for a number of garages. This access is not adopted and the Highway Authority would not require that the track to be adopted so long as it serves this type of land usage. Although the track is not to be adopted it should be hard surfaced and include appropriate drainage to ensure there is not a negative impact on the adjoining adopted highway.

### **LCC (Education)**

No contributions required in this instance.

### **United Utilities**

No objection provided that the following conditions are met: -

This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should not be allowed to discharge to foul/combined sewer. Surface water should discharge to the soakaway/watercourse/surface water sewer and may require the consent of the Local Authority. If surface water is allowed to be discharged to the public surface water sewerage system we may require the flow to be attenuated to a maximum discharge rate determined by United Utilities.

### **Lancashire Constabulary**

Expressed the following:

- Concerned that the rear garden fencing, shown as 1.2m timber post and rail, is not sufficient to protect the rear of these dwellings from intruders; the plots most at risk from burglary are the properties that back onto the track, the allotments and the recreation ground. I acknowledge that hawthorn hedging is to be planted but this would not (until fully established) be of a sufficient height to screen the rear of the properties. To protect the rear of dwellings would always advise that a boundary treatment of at least 1.8m is required.
- Cannot find detail showing the height of the existing stone wall to plots 3 and 15. If the height is less than 1.8m, would recommend adding a trellis topper.
- The dividing fences in rear gardens should be 1.5m in height, this could be achieved with 1.2m fencing with a 300mm trellis topper to increase natural surveillance between properties.
- Access into the rear gardens from the front should be restricted by a 1.8m lockable (from the inside) gate, located as close to the front elevation as possible.

- Garages should be devoid of any windows as they would allow a view of any valuables stored inside.

To reduce the opportunity for crime within the development request any approval include conditions to reflect the above. To further reduce the risk of burglary to the dwellings, would recommend that the physical security meets with the requirements of Secured By Design.

## 7. **NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a press notice was published on 23/09/13 and four site notices were posted on 23/08/13 and 31 letters were sent to neighbours on 15/08/13.

By way of letters/emails/petitions 523 objections have been received to the application. The main points of which are summarised below:

- The scheme conflicts with the Council's Core Strategy in that it proposes housing outside of the Urban Boundary / to the west of Burnley Road
- The houses are out of character with the surroundings and do not enhance the area
- The A682 is a very busy main road and the additional traffic will have both environmental and safety implications
- The local primary school is already full
- The sewerage system is already under pressure
- The Loveclough Valley Allotment Association has already been in active negotiation with the Council to lease (part of) this land

## 8. **ASSESSMENT**

The main considerations of the application are :

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

### Principle

The site is located within an area of Countryside outside of the Urban Boundary of Loveclough.

Whilst there is historical evidence that the land was used in the past as a coal staith (possibly until sometime in the 1950's) its appearance and most recent uses are such that it should now be considered 'greenfield' not 'brownfield' land, with the exception of the former garage colony.

Policy AVP4 of the Core Strategy sets out a Policy framework for Rawtenstall, Crawshawbooth, Goodshaw and Loveclough. The Policy States, inter alia:

- No new major greenfield development in Crawshawbooth, Goodshaw and Loveclough
- Open land to the west of Burnley Road north of Crawshawbooth will be protected from development

The applicant has referred to a permission granted at Loveclough Working Men's Club as setting a precedent for residential development in the Countryside.

Permission 2011/457 provides for erection of ten houses. However, the dwellings permitted here were for the most part to occupy previously-developed land and the couple that were

not were to occupy a narrow strip of land between the previously developed land and Burnley Road.

Furthermore, in two recent appeal cases before the Planning Inspectorate it was argued by the Appellants' that the Council did not have a 5-year housing land supply - 2012/0515 for erection 3 dwellings at Former Scout Hut, New Line, Bacup & 2012/0440 for erection of a bungalow at 89 Goodshaw Avenue North, Loveclough . The two Inspectors both agreed with the methodology put forward by the Council to calculate the figures and concluded that the authority was currently able to demonstrate a 5-Year Land Supply.

Accordingly, the proposal is considered to be contrary to national and development plan policies regarding the focus for urban (including residential) development to be within Urban Boundaries, not Countryside.

#### Housing Policy

Policy 2 of the Council's Core Strategy states that development of un-allocated Greenfield land will be permitted where:

- i. It is for 100% affordable and/or supported housing schemes; or
- ii. It forms a minor part (up to 15% of the overall site size) of a larger mixed use scheme or a major housing proposal (10+ dwellings) on previously developed land or
- iii. It delivers a significant social, economic, or environmental benefit, or
- iv. The application is for a barn conversion and it can be demonstrated that the site has been marketed for economic uses for 12 months, to the satisfaction of the Council, and is not viable for these purposes

The scheme does not accord with any of the above criteria.

Policy 4 of the Core Strategy requires developments of 8 or more houses provide a minimum of 30% as affordable housing, with up to 40% on large sites or those in areas of high demand.

As submitted the application proposed no Affordable Housing, the Applicant indicating that as the site constitutes brownfield land the provision of affordable housing was not required. The Agent has since indicated verbally that they may be willing to offer a financial contribution towards the provision of off-site Affordable Housing.

As stated within the previous section of this report, I am of the view that the site constitutes primarily Greenfield land. Therefore the scheme is considered unacceptable in the absence of the applicant clearly setting out their proposed Affordable Housing offer to fully accord with policy.

#### Visual Amenity

The area forms part of a distinctive open gap between traditional terraced housing with the land clearly open and rural in character, and allowing views from Burnley Road to the wider countryside beyond. The garage colony doesn't enhance the character and appearance of the area, but the proposed development would impinge upon the essentially open and rural character of the area to a far greater extent.

The proposed layout of the dwellings, including their scale, massing and design, is very 'suburban' and does not pay any real respect to the traditional character of that area.

The proposed infrastructure works associated with the proposed allotments and community gardens are significant, including a passing-place/parking area/tracks & paths. The size of the community education building would also be significant. Cumulatively all of the above would erode to a significant extent the essentially open and rural character of the area.

The scheme is considered unacceptable in terms of visual amenity.

#### Neighbour Amenity

I am satisfied that occupiers of the proposed houses would have the amenities they could reasonably expect to enjoy and the separation distances between them and existing dwellings (at over a 25 metres) would ensure neighbours are not unduly affected by the scheme in terms of light, privacy or outlook.

#### Access / Parking

LCC Highways has no objection to the proposal and are satisfied with the relocation of the bus stop and new pelican crossing. I concur with their views and those expressed within the submitted transport assessment that the development would not have an unduly harmful effect on road/traffic safety.

#### Planning Contributions

No contributions have been sought by LCC Education or LCC Highways. Having regard to the Council's SPD there would be a requirement to make a contribution of £20,490 towards Open Space and Play provision. The applicant has not made it clear whether they will make this contribution in addition to undertaking works in relation to the allotments and community education building.

I do not consider the costs of these works sufficient to outweigh the harms of the proposal in terms of inappropriate development within the Countryside, lack of Affordable Housing, and detriment to the essentially open and rural character of the area.

## **9. RECOMMENDATION**

That the application be refused.

### **REASON FOR REFUSAL**

The scheme would result in the development of an un-allocated Greenfield site within the Countryside for housing. The Applicant has not advanced the case to outweigh the harms arising from the proposal in terms of inappropriate development within the Countryside, lack of Affordable Housing and the contribution to accord with the Council's adopted Open Space & Play Equipment Contributions SPD (2008), and detriment to the essentially open and rural character of the area. The development is considered contrary to Sections 3, 6, 7, 8, 10, and 11 of the National Planning Policy Framework, and Policies 1, 2, 3, 4, 18, 22, 23 and 34 of the Council's adopted Core Strategy DPD (2011).