

Application Number:	2015/0070	Application Type:	Outline
Proposal:	Erection of 3 dwellings with shared access to Cowm Park Way South	Location:	Land between Milner Street & Cowm Park Way South, Whitworth
Report of:	Neil Birtles	Status:	For publication
Report to:	Planning Unit Manager	Date:	16 June 2015
Applicant:	Mr A Lancaster	Determination Expiry Date:	22 May 2015
Agent:	Mr P Simpson		

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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	
Other (please state):	Site is in part Council owned

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 Permission be granted, subject to the Conditions set out in Section 10.

2. SITE

The application relates to a wedge-shaped site of 0.2ha which is situated to the south side of the split-level house at 17 Milner Street.

The site has a 105m long frontage to Cowm Park Way South which is owned by the Council and maintained as grass verge. The part of the site which is on the same level as Cowm Park Way South is approximately 15m wide where adjacent to 17 Milner Street but narrows towards the southern end of the site to less than 5m. Behind the level part of the site the land is tree-covered and rises up quite steeply to Milner Street (which at this point is unadopted).

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The trees on this embankment screen the backs of the terraced properties facing Milner Street from view from Cowm Park Way South and the recently built houses on Wooltop Close that form part of the housing estate being built on the Orama Mill Site.

The site lies within the Urban Boundary.

3. RELEVANT PLANNING HISTORY

2014/0382 Erection of 3 dwellings with shared access to Cowm Park Way South

This application sought Outline Permission to erect three dwellings on the site; the Means of Access, Layout and Scale of the proposed development being shown but the matters of Appearance and Landscaping being reserved for later consideration.

As amended, the Layout Plan showed the three dwellings were to share use of an access formed midway along the site frontage to Cowm Park Way South :

- The dwelling proposed nearest to the access-point was to be 2-storey. It was to have its front elevation facing Cowm Park Way South and its rear elevation eating into the embankment sufficiently far to appear 1-storey. It was to have private garden space to its north side rather than to the rear, requiring construction of a retaining wall of approximately 2.5m in height following shrub/tree removal and excavation into the bank.
- The most northerly of the proposed dwellings was to be a 2-storey split-level house, with a hipped-roof. It was to have its front elevation facing south and its rear elevation facing towards its own rear garden, beyond which would be the rear garden of 17 Milner Street. It was to have a garage on that gable facing Cowm Park Way South and climb part way up the bank to the rear of the site.
- The most southerly of the proposed dwellings was to be a 2-storey house. It was to have its front elevation facing north and its rear elevation facing towards its own rear garden, beyond which the tree-cover on the embankment would be retained. Formation of the level plot to accommodate this house and its rear garden would necessitate construction of a retaining wall of approximately 2.5m in height following shrub/tree removal and excavation into the bank.

I considered the site to be of pleasing appearance. Whilst I was not unduly concerned about loss/pruning-back of those trees towards the base of the embankment I considered it important to retain some trees towards the top of the embankment in order to break the view of rear elevations/yards of terraced properties fronting Market Street and provide a backdrop to the proposed development that would mitigate its impact in views from Cowm Park Way South and the Orama Mill housing estate.

Notwithstanding my request that the development not push so far back from Cowm Park Way South that insufficient of the tree-cover towards the top of the embankment was maintained the Layout continued to show construction of retaining structures as little as 3m from Milner Street and replacement rather retention of planting to screen 409-421b Market Street was proposed. Furthermore, the submitted Ecology Report expressed concern about impact of the proposal for that

part of the site occupied by broadleaved woodland, which it said was of local conservation importance.

Accordingly, the application was Refused on 5/11/14 for the following Reason :

Residential development is appropriate in principle in the Urban Boundary but it has not been demonstrated to what extent the broadleaved woodland within the site will be retained, most particularly what (if any) of this locally important habitat towards the Milner Street boundary can and will be retained, having regard to the changes of ground level/retaining structures proposed. This being the case it has not been demonstrated that the proposed development will not unduly and unnecessarily impact on visual & neighbour amenity and biodiversity, contrary to the principles of sustainability, good design and conservation & enhancement of the natural environment of the National Planning Policy Framework (2012) and Policies 1 / 18 / 23 / 24 of the Council's adopted Core Strategy DPD (2011).

4. PROPOSAL

This application is essentially a re-submission of Application and again seeks Outline Permission to erect three dwellings on the site; approval being sought at this stage for the Means of Access, Layout & Scale of the proposed development but the matters of Appearance & Landscaping being reserved for later consideration.

The Layout Plan again shows the three dwellings are to share use of an access formed midway along the site frontage to Cowm Park Way South and are to be split-level. However, the current application is accompanied by a Tree Survey demonstrating that the following planting on the site frontage to Milner Street can be retained :

- A high privet hedge to the rear of 397-407 Market Street; &
- 9 trees in a line to the rear of 411-421a Market Street.

The application is also accompanied by :

- a Planning Statement (including a Design & Access Statement)
- an Ecology Report
- a Flood Risk Assessment

5. 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 10 Meeting the challenges of climate change, flooding, etc

Section 11 Conserving & enhancing the natural environment

Development Plan

RBC Core Strategy DPD (2011)

AVP1 Area Vision for Whitworth, Facit & Shawforth

Policy 1 General Development Locations & Principles

Policy 2 Meeting Rossendale's Housing Requirement

Policy 3 Distribution of Additional Housing

Policy 8 Transport

Policy 9 Accessibility

Policy 18 Biodiversity, Geodiversity & Landscape Conservation
Policy 23 Promoting High Quality Design and Spaces
Policy 24 Planning Application Requirements

6. CONSULTATION RESPONSES

LCC Highways

No objection.

The plan has been amended to address our previous parking and turning concerns.

Recommend a condition that prior to commencement of the works the developer submits for approval a detailed drawing of the footway works on Cowm Park Way South and that the works are completed prior to first occupation. The footway should be built to LCC specification and the developer should obtain the necessary permits to work on the highway.

RBC Contamination Officer

In respect of Application 2014/0382 they advised there was No objection, subject to the following Condition :

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

- a) A contaminated land desk study report (Phase I) is required to assess the actual/potential contamination risks at the site because Council records indicate a potential area of contamination within the site to the north for approval by the Local Planning Authority.
- b) Should the approved Phase 1 Report indicate potential contamination then a Contaminated Land Phase II Report must be undertaken to assess the actual/potential Contamination risks at the site for approval by the Local Planning Authority.
- c) 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.
- d) 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 Contaminated Land Phase I Report, to accord with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

Environment Agency

No objection.

We have reviewed the submitted Flood Risk Assessment (FRA) and agree with the conclusions of the report - whilst part of the site is within a flood risk zone of the nearby River Spodden, with floor levels of 215.1m AOD the proposed houses will not be at unacceptable risk of flooding.

United Utilities

Drainage Comments

In accordance with the National Planning Policy Framework and Building Regulations, the site should be drained on a separate system, with foul draining to the public sewer and surface water draining in the most sustainable way.

No objection provided that the following conditions are attached to any approval :

- Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for

the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding

- A public sewer crosses this site and we will not permit building over it. We will require an access strip width of 8m (4m either side of the centre line of the sewer) which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement. Therefore a modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Water Comments

The level of cover to the water mains and sewers must not be compromised either during or after construction.

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

Whitworth Town Council

In respect of Application 2014/0382 it advised there was No objection. However, the Council asks that LCC Highways consider restrictions on parking on either side of this junction due to the weight of traffic parking on this road during school time.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order site notices were posted on 1/4/15 and letters were sent to neighbours on 27/3/15.

The following comments have been received :

34 Long acres Drive

My comments on this application relate to Rossendale BCs Cycling Strategy.

Section 6 of the application form makes no mention of cycle access. Will a safety audit be undertaken? Cowm Park Way is part of the Valley of Stone Greenway. The applicant appears not to be aware of this.

The point at which access to the new development is proposed is very close to the new road opposite that will give access to the proposed safe pedestrian and cycle link to Whitworth High School. At this point many students of the school will be making a right turn onto the Persimmon development to access the link. During term times many parents park on this section of road reducing it to a single carriageway forcing cyclists onto the wrong side of the road. It would be very much safer to have double yellow lines on both sides of the road from Hall St to well north of the new development.

8. ASSESSMENT

The main considerations of the application are:

- 1) Principle; 2) Visual Amenity; 3) Neighbour Amenity; & 4) Access/Parking.

Principle

The site is located within the Urban Boundary and is reasonably accessible by means of travel other than the private car. Policy 1 and 3 of the adopted Core Strategy are supportive of housing development in Whitworth.

Accordingly, I consider there to be no objection in principle to the proposal.

Visual Amenity

The site is presently of pleasing appearance, the grass verge bounding Cowm Park Way South regularly mown and the shrubs/trees on the embankment climbing up to Milner Street contributing positively to the street-scene in themselves and also serving to screen the rear elevations/yards of terraced properties fronting Market Street from view from Cowm Park Way South, exiting to it from the main estate road serving the housing development on the Orama Mill site and the recently-built houses on Wooltop Close.

At my request the Layout originally submitted with Application 2014/0382 has been amended to avoid clearance of the tree-cover immediately opposite the point the main estate road serving the Orama Mill housing development joins Cowm Park Way South. Nevertheless, a significant area of embankment is to have its tree-cover removed in order to accommodate the three houses proposed, their gardens and the associated retaining structures.

The trees to be removed are not of great age and do not have the protection of a TPO. I am not unduly concerned about the loss/pruning-back of those trees towards the base of the embankment. However, I consider it important to retain some (though not necessarily all) trees towards the top of the embankment in order to break the view of rear elevations/yards of terraced properties fronting Market Street and provide a backdrop to the proposed development that mitigates its impact in views from Cowm Park Way South and the Orama Mill housing estate.

The current application is accompanied by a Tree Survey demonstrating that the following planting on the site frontage to Milner Street can be retained : a high privet hedge to the rear of 397-407 Market Street & 9 trees in a line to the rear of 411-421a Market Street. Prior to commencement of development approval would need to be sought and granted for Landscaping, which would need to provide full details of the planting to be retained, how it is to be protected during construction works and what additional planting is to be undertaken. This satisfactorily addresses the concerns which caused me to refuse Application 2014/0382 due to the impact of the development on woodland of visual & neighbour amenity and ecological value.

To the opposite side of Cowm Park Way South of the application site are six 2-storey houses, of brick and tile construction, that face towards it. These properties share an access and have open-plan front gardens. The proposed development reflects this arrangement, though resulting in building only 3m from Cowm Park Way South. Although the houses on Wooltop Close are setback from the highway much further than the houses now proposed, I do not consider that they will appear unduly prominent or intrusive harm the street-scene of Cowm Park Way so long as appropriate facing materials are used and particular care is taken with the boundary treatments intended for the two rear gardens that will abut it; these are matters reserved for later approval.

Neighbour Amenity

I am satisfied that the proposed development will not detract to an unacceptable extent from the amenities neighbours currently enjoy or could reasonably expect to enjoy.

For occupiers of 17 Milner Street, the house proposed on Plot 1 will have its rear elevation facing towards their rear garden, but will not result in significant loss of light/outlook/privacy from within the neighbours rear garden as it will stand 9+m from the 2m high evergreen hedge on the party-

boundary. Whilst the house at 17 Milner Street has 2 windows in its gable that face towards the application site the proposed house is sufficiently off-set not to cause them a significant loss of light/outlook/privacy. Suitable boundary planting will be required to ensure that there is not a view into one of these gable windows from the grounds of the house on Plot 1.

For occupiers of house on the Orama Mill site, the preceding section of the report has commented on the importance of retaining some (though not necessarily all) trees towards the top of the embankment. With respect to the proposed houses, they will stand 28+m from the houses on Wooltop Close, sufficient to ensure that there is not an unacceptable loss of light/outlook/privacy for the neighbours from the proposed houses.

For occupiers of the terraced properties fronting Market Street, they are sufficiently elevated that the proposed houses will not result in loss of light/outlook/privacy for them. The planting towards the top of the embankment presently forms a high green-screen in views from the rear windows of the terraced properties, and from their rear yards and the part of Milner Street running to their rear. Whilst some of the occupiers of these properties may favour removal of some of the planting towards the top of the bank - in order to increase light to / outlook from their own properties - removal of it all would expose gardens of the proposed properties to such significant overlooking that an immediate remedy to this would then be required. Hence the need for retention of the hedge and trees that are currently to be seen on the frontage of the site with Milner Street.

Access/Parking

The Highway Authority has no objection to the scheme.

I concur with its view that the proposed development will not add significantly to the volume of traffic on the local highway network, the latest layout proposes adequate off-street parking/turning facilities and provision of a footway along the length of the site frontage will ensure adequate visibility in each direction along Cowm Park Way South at the proposed access-point for both pedestrians and drivers of vehicles.

9. SUMMARY REASON FOR APPROVAL

The proposed development is appropriate in principle in the Urban Boundary of Whitworth and, subject to the Conditions, the resulting development will go some way towards meeting local housing needs and will not detract to an unacceptable extent from visual and neighbour amenity, biodiversity or highway safety. The proposal accords with Policies AVP1 / 1 / 2 / 3 / 8 / 9 / 18 / 23 / 24 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

Approval

Conditions

1. No development shall be started until full details of the Appearance and Landscaping 'herein called the reserved matters' have been submitted to and approved by the Local Planning Authority.
Reason : In order to comply with Section 92 of the Town and Country Planning Act 1990.
2. Application for reserved matters shall be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason : In order to comply with Section 92 of the Town and Country Planning Act 1990.

3. Prior to commencement of development the following shall be submitted to the Local Planning Authority :
 - a) A contaminated land desk study report (Phase I) is required to assess the actual/potential contamination risks at the site because Council records indicate a potential area of contamination within the site to the north for approval by the Local Planning Authority.
 - b) Should the approved Phase 1 Report indicate potential contamination then a Contaminated Land Phase II Report must be undertaken to assess the actual/potential Contamination risks at the site for approval by the Local Planning Authority.
 - c) 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.
 - d) 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 Contaminated Land Phase I Report, to accord with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

4. The dwellings hereby permitted shall have a floor level no lower than 217m AOD.
Reason : To avoid unacceptable risk of flooding, in accordance with the submitted Flood Risk assessment, the advice of the Environment Agency and Policy 19 of the Council's adopted Core Strategy DPD (2011).
5. Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed in accordance with the approved details.
Reason : To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding, in accordance with the advice of United Utilities and Policy 19 of the Council's adopted Core Strategy DPD (2011).
6. Prior to first occupation of any of the dwellings hereby permitted a footway shall be constructed on the eastern side of Cowm Park Way South from a point 10m north of the centre line of the new access road and in a southerly direction to a point 10m south of the centre line of Orama Avenue in accordance with the standards and specifications of LCC Highways for adoption; it shall incorporate dropped kerbs on both sides of the new access road and at the northerly and southerly extents of the footway on Cowm park Way South, with dropped kerbs on the opposite footway.
Reason : Reason: To ensure safe and satisfactory access arrangements, in accordance with Policy 24 of the Council's adopted Core Strategy DPD (2011).
7. Prior to first occupation of any of the dwellings hereby permitted the vehicle parking /manoeuvring areas to serve it shall be provided with bound porous surface and thereafter retained for use as such. Furthermore, notwithstanding the provisions of the Town & Country Planning General Permitted Development Order 2015 (or any order amending or revoking and re-enacting that Order), garages forming part of the development hereby permitted shall be retained for the parking of a vehicle(s).

Reason : To ensure the retention of adequate off-street parking/access facilities, in the interests of highway safety and to accord with Policy 24 of the Council's adopted Core Strategy DPD (2011).

8. The application for approval of details of Landscaping shall be accompanied by a Report addressing the Recommended Mitigation & Compensation Measures of Section 6.1 of the submitted Ecology & Tree Assessment for approval by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason : To ensure the retention of the more valuable trees/shrubs within/bounding the site and compensate for loss of other trees/shrubs within the site, in the interests of visual/neighbour amenity and biodiversity and to accord with Policies 1 / 18 / 24 of the Council's adopted Core Strategy DPD (2011).

9. The development shall be carried out in accordance with the following documents:

- a) The planning Application Form, Design & Access Statement, Flood Risk Assessment and Ecology & Tree Assessment; &
- b) The submitted Site Location Plan, Site Layout rev C, House Type & Cross Section drawings

Reason : For the avoidance of doubt.

Informatives

The Local Planning Authority has a Core Strategy (adopted in November 2011) and a series of Supplementary Planning Documents, which can be viewed at http://www.rossendale.gov.uk/a_to_z/service/309/core_strategy, and operates a pre-application planning advice service. All applicants are encouraged to engage with the Local Planning Authority at the pre-application stage. As part of the determination of this planning application the Local Planning Authority has worked pro-actively and positively with the applicant. In this case the applicant did engage in pre-application discussions. The Local Planning Authority has considered the application and where necessary considered either the imposition of planning conditions and/or sought reasonable amendments to the application in order to deliver a sustainable form of development in accordance with the National Planning Policy Framework and the local planning policy context.