

| | | | |
|----------------------------|-------------------------------|-----------------------------------|---------------------------------------|
| Application Number: | 2015/0304 | Application Type: | Full |
| Proposal: | Erection of 2 dwellings | Location: | Land adj 14 Millfold Facit, Whitworth |
| Report of: | Planning Unit Manager | | |
| Report to: | Development Control Committee | Committee Date : | 23 February 2016 |
| Applicant: | Mr A Sanderson | Determination Expiry Date: | 26 February 2016 |
| Agent: | Mr S Hartley | | |

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

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

HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

Article 8

The right to respect for private and family life, home and correspondence.

Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

1. **RECOMMENDATION**

That Permission is granted subject to the Conditions set out in Section 10.

2. **SITE**

This application relates to a wedge-shaped site, of approximately 0.1ha in area, which is situated to the south side of Millfold. The site has a frontage width of approximately 31m and a depth, at its maximum, of approximately 18m.

The site slopes down gently from east to west, and has a hardcore-surface. The frontage to Millfold is fenced/gated, the site currently used for the parking of vehicles.

A stone retaining wall runs along the eastern boundary and along the greater part of the southern boundary, rising from a height of below 1m to 2m, reflecting the level of the ground beyond these boundaries. Midway along the southern boundary, just to the other side of the retaining-wall is a mature multi-stem Sycamore, with a Willow of less size and visual amenity value situated further to its west. Beyond the stone retaining-wall to the eastern and southern side of the application site is a tarmaced car park used by residents of dormer-bungalows extending up Industry Street. That dormer-bungalow nearest to the application site presents a blank gable to it. To the other side of Industry Street are terraced houses of 2-storey construction and traditional design/facing materials.

To the west side of the site is 14 Millfold, a semi-detached house of 2-storey construction and traditional design/facing materials, possessing a garage that comes near to the party-boundary. Whilst the concrete-post/timber panel fence on the party-boundary is 1m high where near to the highway, it is for the most part 1.75m high. The grounds of this property are somewhat lower than the application site, with a mature eucalyptus tree in the front garden near to the boundary fence. To the west side of 14 and 15 Millfold runs the River Spodden, which has been designated as 'main river' by the Environment Agency; 14 & 15 Millfold and the north-west corner of the application site are identified as being within Flood Zone 2 by the Environment Agency.

To the other side of Millfold to the application site, close to the highway, are traditional 2 and 3-storey mill buildings of stone construction. They have been sub-divided, 6 or so bay-doors facing the application site. To the west side of these buildings is the access to more modern industrial units.

The site is within the Urban Boundary of Whitworth.

3. **RELEVANT PLANNING HISTORY**

- 1996/418 - Construction of 2no semi-detached dwellings
Permission granted on 2/7/97
Lapsed without implementation

- 2007/49 - Construction of two dwellings
Dismissed on Appeal 15/10/07

- 2008/188 - Erection of two detached houses
Dismissed on Appeal 3/2/09

The Inspector's decision letter states :

"The Council considers the siting and design of the dwellings and the access thereto to be acceptable and that the development would not harm the living conditions of neighbours in any respect. I have no reason to disagree.

On this basis, there are two main issues. Firstly, whether the proposal would be acceptable in strategic terms; and secondly, whether sufficient information has been submitted to determine the suitability of the site for family housing in light of its historic use.

- 1) *I am satisfied that the proposal accords with the requirements of the Interim Housing Policy Statement and it would not frustrate the Council's aim to direct residential development to the areas referred to...*

2) *On the basis of the conclusions of the [Appellant's] 'Study of Contamination, Landfill Gas and Geotechnical Issues' I am of the view that more detailed and intrusive studies are required before it can be known for certain that the site is capable of being remediated to a standard suitable for family housing.*

In reaching my decision, I am mindful that issues of flood risk have been satisfactorily addressed, that no local objections were made, and that the scheme has the support of Whitworth Town Council...I have also considered concerns raised by a local resident relating to infrastructure including drainage and utilities, although in the absence of any compelling technical evidence to the contrary, I have no reason to doubt that these matters could be satisfactorily addressed."

4. **PROPOSAL**

As first submitted the application sought permission for the same scheme of development as that proposed in Application 2008/188. However, the Applicant has submitted an amended plan to hand the house proposed nearest to 14 Millfold to make it less likely that its occupiers will wish to prune-back the multi-stem Sycamore situated just beyond the southern boundary of the site.

In short, the scheme involves the construction of two 3-bedroomed detached houses, to be constructed with a floor level of 231.2+m AOD in order to meet the Environment Agency's previously-stated requirement for flood-mitigation. Each of the houses is to be of natural stone/slate construction, with a 2-storey gabled projection to the front and a 1-storey projection to the rear, with off-street parking for two cars.

The Planning Statement accompanying the application states, for the Inspector in respect of the appeal for Application 2008/188 :

"...the central issue was the absence of sufficient information to convince the Inspector that the site could be remediated to a standard suitable for family housing. The Inspector was satisfied that the proposal was acceptable in strategic housing terms.

Since the above appeal decision a phase 2 contamination report has been completed and the identified contamination has been removed from site. The Borough's Environmental Health officer has assessed the treatment work and has met the applicant's engineering consultant on site and has agreed that no further remediation is required. The phase 2 contamination report is submitted with the application together with a letter from the engineering consultant with regard to the removal of contaminants since then."

The documentation relating to Ground Contamination which accompanies the current application indicates that :

- The principal constraint upon residential development of the site resulted from a gasometer shown on OS Maps of 1851 & 1910.
- Intrusive investigations in July 2009 revealed the gasometer to have been located towards the eastern end of the site, have a diameter of 7.3m and a floor-level 2.4m below the existing ground level.

- The material/water within its perimeter wall/above its floor was sufficiently contaminated to have required removal from the site and the hole was then in-filled with clean stone.
- Elsewhere the trial pits encountered made-ground/building foundations, only that nearest the gasometer with hydrocarbon contamination present and at a depth consistent with slow-release of contamination from the gasometer.
- There is no need for further material to be removed from the site so long as the proposed houses incorporate a high-specification hydrocarbon resistant membrane to guard against gas & vapour ingress, protection of waterpipes and provision within soft-landscaped areas of clean-soil of at least 0.6m in depth.

5. **POLICY CONTEXT**

National

National Planning Policy Framework

| | |
|------------|---------------------------------------------------------|
| 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, etc |
| Section 11 | Conserving and Enhancing the Natural Environment |

Development Plan Policies

Rossendale Core Strategy DPD (2011)

| | |
|-----------|-------------------------------------------------------|
| AVP1 | Area Vision for Whitworth, Facit & Shawforth |
| Policy 1 | General Development Locations and Principles |
| Policy 2 | Meeting Rossendale's Housing Requirement |
| Policy 3 | Distribution of Additional Housing |
| Policy 4 | Affordable and Supporting Housing |
| Policy 8 | Transport |
| Policy 9 | Accessibility |
| Policy 16 | Preserving and Enhancing the Built Environment |
| Policy 17 | Rossendale's Green Infrastructure |
| Policy 18 | Biodiversity, Giodiversity and Landscape Conservation |
| Policy 19 | Climate Change, etc |
| Policy 23 | Promoting High Quality Design & Spaces |
| Policy 24 | Planning Application Requirements |

6. **CONSULTATION RESPONSES**

RBC Environmental Health

Having considered the proposal, and the objections to it, my general observation is that this is not a very attractive place to build houses.

However, we have no recent or on-going complaints in the area. From a noise perspective I cannot say that likelihood of complaints would be high. It would seem that there is some outside normal hours working in the vicinity but I would question if the frequency or timing would be sufficient for nuisance.

LCC Highways

With respect to Application 2008/188 it advised that it had no objection subject to the proposed drives being not less than 6m in length; the drawings accompanying the current application show the drives will be 6m long.

Environment Agency

FLOOD RISK

With regard to the flood risk assessment this is solely based on the outlines shown on our published "Flood Map" and does not take into account any other risks. We would point out that the culverted "Main River" Hud Clough Brook flows beneath Millfold in close proximity to the development site and is also a source of risk.

The section of culvert beneath Millfold is in a poor state of repair and we are seeking funding to carry out a replacement scheme. There is a risk of flooding from Hud Clough Brook in the event of culvert collapse, blockage or capacity exceedance and this would manifest itself in the form of overland flows. However, the proposed mitigation measure of having floor levels 600mm above existing ground would reduce risks associated with overland flood flows.

The proposed development will only meet the National Planning Policy Framework (NPPF) policy to reduce flood risk if the following planning condition is included :

The development hereby permitted shall not be commenced until such time as details of proposed floor and external levels has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason : To reduce the risk of flooding to the proposed development and future users.

Hud Clough Brook is designated "Main River" and is subject to Byelaw Control. In particular, no works may take place within 8m of the edges of the culverted watercourse without our prior consent. Environment Agency Consent is also required under the Water Resources Act 1991, for any works on, over or within the channel of the watercourse, including construction of surface water outfalls.

LAND QUALITY

We have reviewed the submission in relation to Ground Investigation and Remediation. We would agree with the conclusion that all that could be undertaken in terms of remediation of the gas holder on the development site has been done. The contained and contaminated soils have been removed from the site and any incident influx of contaminated groundwaters have also been removed. Due to the proximity of the gas holder to the road and other structures removal off site is not physically possible.

This summary of works undertaken to date and the on construction remediation strategy as presented are acceptable to allow the commencement of the development with regards to contamination and land risk assessment. Third party validation of the installation of the hydrocarbon resistant membrane should be requested to complete the remediation strategy for the development.

United Utilities

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

- 1) Foul and surface water shall be drained on separate systems.
Reason : To secure proper drainage and to manage the risk of flooding and pollution.

- 2) Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.
The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public sewer must be restricted to 5l/s.
Reason : To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

A public sewer crosses this site and we may not permit building over it. We will require an access strip width of 6m (3m 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.

Whitworth Town Council

No objection.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order neighbours were notified by letter on 9/9/15 and a site notice posted.

The following comments have been received :

5 Industry Street

One of the questions on the application form is whether there are any adjacent trees near to/overhanging the area where building would take place, the applicant answered no. Now forgive me but opposite my property is a very well established tree (5 trunks, approx. 30 m tall).

I would like you to look into placing a tree preservation order onto this tree, as it is a very well established tree and will have substantial roots running all round the area. It also provides a positive look to the area, given that we are a rural area it would be in your best interests to keep such heritage.

The owner of said land is currently storing 3 quarry wagons on it at present - what are the rules of starting heavy plant machinery in the early hours of the morning? I believe there

has been many complaints about this in the past, this was when only one truck was stored. What can be done about this issue?

4 Units in Whitfield Mill

Object.

Whitfield Mill is currently a designated industrial area, from which a 24hr Roller Shutter company operates immediately opposite the application site from Units 5 & 6. This long established business lends itself to a considerable amount of noise and light pollution. Vehicles have to load and unload under floodlit area at all hours of the day/night. This would not be tolerated by residents in the immediate proximity as planned. Fabrication is required outside of sociable hours - cutting steel, welding rollers and fabricating items required to secure our clients properties. There is also a safety issue to be considered. The use of welding equipment happens on a daily basis and there is a the possibility of a child, gazing from their window, directly at me or one of my engineers welding and sustaining 'arc-eye', something not very nice at all.

Parking on this already exhausted road will cause more problems i.e. obstruction, safety on the street. Each plot has two car spaces allocated which barely meets the requirements of a modern family. Any visitors coming to the house will not doubt park on the road.

This has a direct affect on another business which I own, Class Wedding Cars, a wedding car hire company that operates from Unit 2. These vehicles are prepared and stored the night before at Millfold. Any parking at all on the street opposite, effectively blocks these cars from exiting these units. As a thriving/growing company, this would in no doubt, be catastrophic to the on-going business which adheres to strict time-lines - brides generally don't like the wedding cars being late.

Whitfield Mill comprises of six small units. These units are very niche. In my opinion, the building of the proposed dwellings in such close proximity will ultimately render this business complex redundant. With business premises being in such short supply, I implore you to embrace the reinforcement of business in the community.

We operate a piling & foundation company from Unit 4. We have vehicle and waggon deliveries constantly. Also we load/unload sometimes as early as 6am. We feel this location is wholly inappropriate for residential development bearing in mind the construction-related companies in 3 of the units facing the site, not to mention the traffic and associated logistical problems.

8. ASSESSMENT

The main considerations of the application are:

- 1) Principle
- 2) Ground Conditions / Flood Risk
- 3) Visual Amenity
- 4) Neighbour Amenity &
- 5) Access/Parking

Principle

The application site is located within the Urban Boundary of Whitworth and constitutes 'previously-developed' land that abuts 14 Millfold, a semi-detached house dating from the 1980's, and near to dormer-bungalows on Industry Street of even more recent construction.

Furthermore, the site is reasonably near to Market Street, along which run bus services and are located shops/related facilities. To this extent the site is accessible/ sustainable.

Accordingly, there is not considered to be an objection in principle to residential development of the site.

Ground Conditions / Flood Risk

Having regard to the advice of the Environment Agency, I am satisfied that contamination resulting from the former gasometer at the eastern end of the site has been adequately remediated to enable residential development of the site, subject to conditions to ensure the houses now constructed have foundations that incorporate a hydrocarbon resistant membrane and soft-landscaped garden areas are provided with clean soil/subsoil to a depth of 0.6m. A Condition is recommended to ensure this is undertaken.

Likewise, having regard to the advice of the Environment Agency, I am satisfied that the proposed houses and their grounds can be provided at a level which will adequately mitigate risk of them flooding and do so without unduly adding to flood risk elsewhere. The Condition sought by the Environment Agency in respect of this matter is recommended.

Visual Amenity

Each of the houses is to be 2-storey and of natural stone/slate construction. I am satisfied that they will not form an unduly prominent or intrusive feature in the street-scene. The Applicant has submitted an amended plan to hand the house proposed nearest to 14 Millfold to make it less likely that its occupiers will wish to prune-back the multi-stem Sycamore situated just beyond the southern boundary of the site, about which a neighbour had expressed concern.

Neighbour Amenity

For the reasons set out in the preceding paragraph I am satisfied that the proposed development will not detract from the visual amenities of neighbours. Likewise, I am also satisfied that the proposed development will not result in an unacceptable loss of privacy/light/outlook for any neighbours.

The greatest concern I have is about compatibility of residential development of this site while there are industrial units on the opposite side of Millfold.

Objections to the residential development of the site have been received from occupiers of some of the industrial units on the opposite side of Millfold on the grounds that residents of the proposed houses may raise complaints about their activities in terms most particularly of noise, traffic and hours of working.

Amongst the benefits the applicant said would be derived by residential neighbours from the scheme of residential development proposed by Application 2008/0188 was cessation of lorry parking on the site. In respect of that application Whitworth Town Council & LCC Highways had no objection, no objections were received from occupiers of the industrial units opposite and, whilst the Council's Environmental Health Unit advised that it had not received complaint about lorry parking here in recent years from local residents, it did not raise objection to residential development of the site on the basis that it would be incompatible with the industrial units opposite.

With respect to the current application neither Whitworth Town Council or LCC Highways have indicated that they have objection and a resident of Industry Street has complained about the present use of the application site for parking of HGV's (unconnected with the

industrial units on the opposite side of Millfold) and early-morning engine starts. Having considered whether it is appropriate to permit housing development on this site the Council's Environmental Health Unit has advised that due to the industrial units on the opposite side of Millfold this is not a very attractive place to build houses. However, it does not consider refusal of the application could be sustained as there are no recent or on-going complaints about operations of the industrial units and insufficient likelihood of complaints from future occupiers of the proposed houses.

Accordingly, although I do not consider the juxta-position of the proposed houses with the industrial units on the opposite side of Millfold ideal, and can appreciate why occupiers of these units are concerned that future residents of the proposed houses will complain about their activities, I do not consider this to provide grounds to refuse the application.

Access / Parking

I am satisfied that the local road network can accommodate the additional traffic the proposed dwellings will generate and adequate off-street parking is being proposed within the grounds of each dwelling to accord with the Council's approved parking standards.

9. SUMMARY REASON FOR APPROVAL

The proposed development is considered to be acceptable in principle for a previously-developed site within the Urban Boundary and, subject to the conditions, it is not considered likely to result in unacceptable harm to visual and neighbour amenity or flood risk/public health/highway safety. It is therefore considered to accord with Policies AVP1 /1 / 2 / 3 / 8 / 9 / 16 / 19 / 23 / 24 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

That the application be approved.

CONDITIONS

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

Reason : To accord with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out in accordance with Drawing No alan sanderson 25-11-15, unless otherwise required by the conditions below.

Reason: For the avoidance of doubt.

3. The development hereby permitted shall not be commenced until such time as details of proposed floor and external levels has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason : To reduce the risk of flooding to the proposed development and future users, in accordance with the advice of the Environment Agency and Policy 19 of the Council's adopted Core Strategy.

4. The development shall be carried out in accordance with the recommendations of the submitted Geoenvironmental Assessment & Remediation Strategy (prepared by LK Consult Ltd & dated 17/7/15), which indicates a need for clean soil in garden areas, gas & vapour protection and protection of water pipes. Prior to first occupation of any dwelling a Verification Report detailing the actions taken in this regard (including validation works) shall be submitted to and approved in writing by the Local Planning Authority.

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

5. Foul and surface water shall be drained on separate systems.

Reason : To secure proper drainage and to manage the risk of flooding and pollution, in accordance with the advice of United Utilities and Policy 19 of the Council's adopted Core Strategy.

6. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. In the event of surface water draining to the public surface water sewer, the pass forward flow rate to the public sewer must be restricted to 5l/s.

Reason : To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with the advice of United Utilities and Policy 19 of the Council's adopted Core Strategy.

7. Prior to first occupation of any dwelling the footway/dropped-crossings fronting the site, as shown on Drawing No alan sanderson 25-11-15, shall be constructed in accordance with the Lancashire County Council specifications and standards for adopted highways.

Reason : In the interests of highway safety, in accordance with Policy 24 of the Council's adopted Core Strategy.

8. Prior to first occupation of any of the dwellings hereby permitted the parking area to serve it shall be provided with hard, permeable surface. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015, or any order amending or revoking & re-enacting that order, the parking areas provided shall thereafter be kept freely available for the parking of cars.

Reason : In the interests of highway safety, in accordance with Policy 24 of the Council's adopted Core Strategy.

9. Prior to commencement of construction of the houses hereby permitted samples of the natural stone and natural slate to be used shall be submitted to and approved in

writing by the Local Planning Authority. The development shall be completed in accordance with the approved facing materials.

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

10. Prior to the commencement of the development hereby permitted a scheme of Landscaping/Boundary Treatment shall be submitted to and approved in writing by the Local Planning Authority, notwithstanding any such details which may have previously been submitted. The submitted scheme shall provide details of :
- a) measures to be taken during the development phase for the protection of trees/shrubs on the site to be retained;
 - b) retaining structures/walls/fences/gates/hard-paved areas;
 - c) the types and numbers of trees and shrubs to be planted and their size and distribution; &
 - d) any changes of ground level or landform.

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

11. All measures within the approved scheme of Landscaping/Boundary Treatment for the protection of trees/shrubs during the development phase shall be adhered to. All hard-surfaced areas/retaining structures/walls/fences/gates forming part of the approved scheme of Landscaping/Boundary Treatment shall be completed prior to first occupation of any of the houses hereby permitted, unless otherwise agreed in writing with the Local Planning Authority. All new planting forming part of the approved scheme of Landscaping/ Boundary Treatment shall be carried out in the first planting season thereafter, unless otherwise agreed in writing with the Local Planning Authority. Any trees or shrubs in the approved scheme which within a period of 2 years of first occupation of the final dwelling die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar siting, size and species, unless the Local Planning Authority gives written consent to any variation.

Reason : In the interests of visual and neighbour amenity, and to protect and enhance heritage/wildlife assets, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy.

12. Any ground/construction works associated with the development hereby approved shall not take place except between the hours of 7:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays. No construction works shall take place on Sundays or Bank Holidays. The shell-&-auger method shall be used to form any piled-foundation.

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