

Application Number:	2016/0451	Application Type:	FULL (Retrospective)
Proposal:	Building of a 1m high flood-defence wall to north side of 1/3/5 Mint Street & within the Recreation Ground	Location:	Mint Street Chatterton
Report of:	Planning Unit Manager	Status:	For publication
Report to:	Development Control Committee	Date:	13 th December 2016
Applicant:	Mint Street Flood Group	Determination Expiry Date:	16 th December 2016
Agent:	Mrs Emma Palmer		

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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):	Application includes Council-owned land

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 retrospective Permission be granted.

2. SITE

Mint Street is situated at the north end of Chatterton Road, a terrace of houses to each side of it. Beyond the rear gardens/yards of the houses at 1/3/5 Mint Street is open land that extends up to the River Irwell. To the other side of Chatterton Road is the Recreation Ground, which is owned by the Council, bounded on its north and west sides by the river. A gate is located at the point Chatterton Road terminates, beyond which a track continues north as far as the river, the public

footpath over it giving access until the flood event of December 2015 to the footbridge giving connection to Strongstry Road, to the other side of the river.

The application site measures approx. 10m x 55m and includes land towards the bottom end of the rear gardens/yards of the houses at 1/3/5 Mint Street & just beyond, and extending across Chatterton Road/the gated private track and into the Recreation Ground for a short distance.

The area lies within Countryside designated as Green Belt and is also within the Chatterton/ Strongstry Conservation Area. The Conservation Area Character Appraisal identifies the houses on Mint Street to be 'Positive Unlisted Buildings of Medium Quality' and the trees which ring the Recreation Ground as important to the character & appearance of the area.

The houses at 1/3/5 Mint Street and much of the Recreation Ground are within Flood Zone 3, as designated by the Environment Agency.

3. PLANNING HISTORY

2013/0393 Flood Defence Works including the formation of bunds, embankments, inlet & outlet weirs and associated works - Chatterton Road Recreation Ground
In June 2012 land/properties in the vicinity of the recreation ground were inundated when the River Irwell over-topped its banks, initially to the north of Mint Street.

In October 2013 permission was granted to an application submitted by the Environment Agency for a scheme of (on-going) works intended to diminish the likelihood/extent of flooding here and in Stubbins from a repetition of such an event. The scheme included :

- Formation of an embankment immediately adjacent to the river north of Mint Street, thereby raising the level of the existing track running here by up to 1m
- Construction of an inlet-weir on the north side of the recreation ground and an outlet-weir at its south-west corner, thereby enabling the recreation ground to act as a 'sump' in the event of a particularly high river level, so relieving areas downstream of flood risk.

4. PROPOSAL

Notwithstanding completion of the works permitted by Permission 2013/0393, in December 2015 properties in Mint Street again flooded.

The current application has been submitted by residents of Mint Street and seeks retrospective permission for works to add to flood protection for the 7 houses.

The Supporting Statement accompanying the application describes the intended works as follows :

- a) rebuilding of a 33m length of wall forming the northern boundary to No's 1,3 & 5 Mint Street (works that would appear to fall within permitted development, but are included for completeness)
- b) rebuilding of a 3.5m length of wall that runs from the edge of Chatterton Park and extending it a further 6.5m into the park (to divert flood waters from the level of the houses & road to the lower park level)
- c) providing fixing-channels between the walls (to allow the installation of removable flood barriers at times of flood)

It goes on to state :

- The new walls will be constructed from traditional, reclaimed sandstone. Walls will be capped with flat sandstone copings.
- The new wall is circa 800mm lower than the existing wall and has been developed to resist a 1m head of water.
- The works will significantly improve the visual amenity of the conservation area, with the mismatch of stone and timber fences bounding the private gardens of 1/3/5 Mint Street being replaced with a traditional low sandstone wall which will provide the unity that is apparent to the front of the properties.
- The existing 2.5m wide gate at the end of Chatterton Road is to be kept (hung between the existing gate-piers), whilst the new opening is to be 3.6m wide. There will be 2 further openings in the wall - one a re-instatement of an entrance to the rear gardens/yards of the houses at 1/3/5 Mint Street and the other to avoid the need to divert a path within the park.
- Care and management of the 3 removable flood barriers will be undertaken by the community, their installation instigated by EA Flood Alerts. At these times access to the public footpath will be restricted but in any case inadvisable to use/under water.

The Agent advises that the scheme is the result of discussions they have had with the Environment Agency and Officers at both Lancashire County Council and Rossendale BC. Having concluded those discussions on the form the scheme should take the decision was taken by the residents to proceed with the works in advance of obtaining Planning Permission in order that they were complete prior to the on-set of winter/any further flood event.

5. POLICY CONTEXT

National

National Planning Policy Framework

- Section 4 Promoting Sustainable Transport
- Section 7 Requiring Good Design
- Section 9 Protecting Green Belt Land
- 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)

- AVP5 Area Vision for South West Rossendale
- Policy 1 General Development Locations and Principles
- Policy 16 Preserving and Enhancing Rossendale's Built Environment
- 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 & Its Communities
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

Other Material Planning Considerations

RBC Chatterton/Strongstry Conservation Area Character Appraisal 2011

6. CONSULTATION RESPONSES

RBC Conservation

I am concerned that the proposed wall has been changed to incorporate timber railings which were not part of the pre-app discussion. This gives a modern appearance viewed from the conservation area. If these are to be incorporated, can the colour of the timber be agreed in writing and maintained as such thereafter. Also, can consideration be given to removal of PD rights for alterations to boundary/other means of enclosure so that the appearance of the wall and its flood reducing capabilities are maintained.

RBC Property Services

No objection to those works which are intended on Council-owned land.

Environment Agency

We are aware of this proposal and have already been consulted on it directly by the community. We have no flood risk objections to the proposal.

LCC Highways

No objection.

The proposed wall will be in private ownership. Therefore I would raise no highway safety concerns.

LCC Rights of Way

No objection.

Having looked on site and having received assurances from the Agent that low-mobility access along the footpath has been improved by new provision on the west side of the proposed barrier, I do not raise any objection.

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order the application has been publicised by a press notice, site notice and letters to neighbours.

The only comments received are from the occupier of The Barn, North Street (300m N of the site) :

- Part of the work has been carried out on my land without my permission or knowledge and my wall at the side of my gate has been demolished and removed, again without my permission or knowledge.
[The Agent has since served proper Notice on this person, thereby acknowledging the application site to include land within their ownership, and this objector has since confirmed receipt of the Notice and advised that they have taken legal advice/are corresponding directly with the Agent regarding return and reinstatement of their property.]
- I understand that the wall erected in the field has had the owner’s permission and is obviously a good flood defence. However the area where my wall has been demolished and subsequent lower wall built is less understandable.
- This area is a Conservation Area. In my mind the wall that has been demolished, and two other old gate posts which have disappeared, were part of the history and character of the area and should have been protected and incorporated into the new design.

8. ASSESSMENT

The main considerations of the application are :

- 1) Principle; 2) Heritage Interest / Visual Amenity; & 3) Neighbour Amenity.

Principle

The application site lies within Countryside designated as Green Belt, wherein National and Core Strategy policies seek to control development in order to maintain the essentially open and rural character of the area. Notwithstanding the flood-defence benefits of the scheme, it is also appropriate to consider what impact it has upon use of the Recreation Ground.

The proposal constitutes an engineering operation, not a change in use of land. The NPPF makes it clear that engineering operations which preserve openness and do not conflict with the purposes of including land in Green Belt are not to be considered inappropriate in Green Belt terms. For the greater part of its length the proposed flood defence wall follows the course of and replaces existing walls & fences defining the rear boundary of the houses at 1/3/5 Mint Street. Accordingly, the proposal does not unduly affect the openness of Green Belt or undermine the reasons for having included the area within Green Belt.

Property Services advises that the works on Council-owned land do not diminish the utility of the Recreation Ground.

This being the case, the proposal is not considered acceptable in principle.

The impact of the scheme on the character & appearance of the area is considered below.

Heritage Interest / Visual Amenity

Section 72 of the T&CP (Listed Buildings & Conservation Areas) Act 1990 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Consistent with this, Policy 16 of the adopted Core Strategy seeks to preserve and enhance Rossendale's historic built environment by :

"Promoting the positive management of the Borough's heritage assets, avoiding unnecessary loss and requiring appropriate mitigation of any negative impacts.

Ensuring that all development is:

- a. Located in a way that respects the distinctive quality of the historic landscape and setting and retains or enhances the character and context;*
- b. Of a high standard of design, reinforcing the local distinctiveness of Rossendale."*

In this instance, prior to works to construct the flood defence wall the back gardens of 1/3/5 Mint Street were bounded by assorted walls and fences. The Council's Conservation Officer did not have objection to their replacement with a flood defence wall. The Conservation Officer did initially express concern that since the pre-application discussions they were a party to the scheme appeared to have been amended, with the new wall to be topped by timber rails between stone-piers. The Agent has since confirmed that only to the rear of No 5 is this to be the case and ties in with the stone wall topped by timber rails being retained to the rear of its side-garden.

The 10m length of wall to the opposite side of Chatterton Road resulting from the scheme, though lower than the 3.5m length of wall it replaces, is of stone construction and does not appear unduly prominent or intrusive. The additional length of wall here results in it passing close to 3 mature trees. However, the Tree Report accompanying the application indicates that all of the works can be completed without undue root-damage as the wall follows a pre-existing wall line and through an area of hardstandings.

Accordingly, the scheme is not considered to unduly harm the character or appearance of the Conservation Area or Countryside.

Neighbour Amenity

The scheme is being promoted by the residents of Mint Street and no objections have been received from neighbours in the vicinity.

The only objection to the application has been submitted by the resident of a property located to the other side of the river, with extensive landholdings. They claim part of the work has been carried out on their land, without their consent and are pursuing this private-matter directly with the Agent.

9. SUMMARY REASON FOR APPROVAL

The development for which permission is sought is considered appropriate in principle, helping with flood-defence of properties which have been the subject of recent flooding without unduly affecting the essentially open and rural character of Countryside/Green Belt, Chatterton/ Strongstry Conservation Area, neighbour amenity or the utility of the Recreation Ground or public footpaths in the vicinity. The scheme is considered to accord with the National Planning Policy Framework and Policies AVP5 / 1 / 16 / 17 / 18 / 19 / 21 / 23 / 24 of the Council's Core Strategy DPD (2011).

10. RECOMMENDATION

That retrospective Permission be granted.

CONDITIONS

1. The flood defence wall hereby permitted shall accord with Drwg No 15.06-06, Drwg No 15.06-08-A & Drwg No 15.06-09-A, and shall not be topped by piers/timber rails other than to the rear of 5 Mint Street.

Reason : For the avoidance of doubt.