

Application Number:	2018/0577	Application Type:	Full
Proposal:	Erection of dwellinghouse	Location:	Land to rear of 410 - 420 Newchurch Road Rawtenstall
Report of:	Planning Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	26 February 2019
Applicant:	Mr L Mather	Determination Expiry Date:	28 February 2019
Agent:			

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

Refuse for the reasons set out in Section 10 of the report.

2. SITE

The application relates to land owned by the Council which is to the rear of 410-420 Newchurch Road, 3 pairs of semi-detached houses to the north side of this classified road, and which can be accessed by vehicles using the existing drive which runs between 420 Newchurch Road and the bungalow at No 422.

Having passed between the gate pillars/stone walls on the Newchurch Road frontage the drive widens from 2.5m to 3m, flanked by mature trees within grass verges until the bungalow at No 422 is reached. It and its garage abut the drive and beyond it are 3 house, only that at the north end of the drive with off-street parking &/or a garage taking access from it.

The site has a width of 23m and projects back from the existing drive by 50m. Between the mature trees that line the frontage to the drive a number of informal parking spaces have been formed by local residents. Behind them the site is occupied by trees forming part of the belt of woodland that extends up to the formal playing pitches at Marl Pits Sports Ground, a connecting footpath running through the woodland to the north side of the application site.

The part of the application site to the rear of 410-420 Newchurch Road is identified as Greenlands which is within Countryside.

The houses fronting Newchurch Road and to the east side of the drive serving the application site lie within the Urban Boundary and are within Cloughfold Conservation Area. The Conservation Area Character Appraisal identified the trees fronting 410-420 Newchurch Road and flanking that part of the access drive to the side of No 420 and flanking the drive to the rear of No 420 as 'Important Trees/Tree Groups' to the character and appearance of the Conservation Area. Indeed, those trees in the front gardens of 410-420 Newchurch Road and flanking that part of the drive to the side of No 420 have the protection of a Tree Preservation Order.

3. RELEVANT PLANNING HISTORY

2018/0439 Erection of dwellinghouse
Withdrawn

Pre-App Erection of dwellinghouse
Enquiry This enquiry sought advice about the likelihood of obtaining planning permission to
2018/0046 erect on the site a detached 6-bedroomed dormer-bungalow, specifically designed at ground floor level to meet the requirements of two disabled children using wheelchairs, and with an integral double-garage.

Notwithstanding that the Council could not then demonstrate that it had a 5-year supply of deliverable housing sites Officers advised :

“The site (as a designated Greenlands) serves an important function in breaking up the surrounding built form and providing ‘breathing space’ and woodland close to existing areas of development.

The construction of a new dwelling on the site (however well designed it was) is likely to result in unacceptable formalisation and harm to the character and function of the Greenlands...[and] would also contribute in a small way to fragmentation of the Borough’s green infrastructure network, and encroachment of built development into the Countryside contrary to Policies 1, 17, 18 and 21 of the Council’s adopted Core Strategy.

Whilst the development would provide a benefit in terms of a single dwelling towards the Borough’s housing need, the level of benefit would be small and accordingly only a small amount of weight would be afforded in any decision to that benefit.

As it stands, it is not considered likely that an application for a new dwelling on the site would be supported, as the harm to countryside and the character and function of the designated Greenlands in this case would outweigh any public benefit provided by the scheme.”

4. PROPOSAL

Permission is sought to erect on the site a detached 7-bedroomed dormer-bungalow, specifically designed at ground floor level to meet the requirements of two disabled children, and with an integral double-garage; the dwelling has broadly the siting of the dwelling considered as part of Pre-Application Enquiry 2018/0046, but of somewhat increased footprint/volume as result of an additional ground-floor bedroom for a future live-in carer.

Appended is a copy of a letter from the Applicant explaining the family's circumstances. In short:

- they are a family of 8, their eldest child now studying at university;
- they have two boys (presently aged 6 & 7) with multiple disabilities - including severe sight impairment, mobility & learning difficulties;
- their current home is located in Newchurch and has been adapted to its maximum potential but is no longer suitable for the 2 boys needs;
- the proposed dwelling has been designed to meet the needs of the whole family, with the ground-floor floor fully accessible for the boys with disabilities, with large windows in its living areas as natural light is best for their vision, which is likely to deteriorate further as they grow;
- the outdoor space will also be made wheelchair-accessible and provided with specialist play-therapy equipment;
- the house has been designed with the future in mind, to diminish the prospect of further alterations which would be disruptive to family life.

The proposed dormer bungalow is to have a 12.5m long gable standing 3m from the rear boundary of the back gardens of the houses at 414 & 416 Newchurch Road, possessing a door and high-level window serving the double-garage and with a hipped-roof above it. The front elevation of the dwelling is to be setback from the access lane by 15+m and is to have a width of 18.75m, possessing one gabled-dormer on the roof-plane. The rear roof-plane is to possess two gabled-dormers looking down its rear garden of 14m in length, whilst the gable facing to the north will possess no window or door openings and stand 3m from the site boundary & 5m from the informal footpath running through the wood to remain to this side.

The dwelling is to be constructed with external walls of coursed stone and a roof of artificial-slate (possibly with PV tiles), with a ridge-height of 5.8m. The double-garage has been designed to accommodate two vans, larger vehicles being needed to transport two wheelchair-bound people. To the front a 3m wide drive, with a bound-gravel surface is to pass between a gap of approximately 14m between the trunks of 2 protected trees fronting the lane, leading to a block-paved area projecting 8m forward of the garage. The drive is to be gated and timber fences and native-species hedges to be provided elsewhere around the boundaries of the garden.

To improve access to the site it is intended that the gate-posts/flank walls on the Newchurch Road frontage be altered to increase the width of the opening from 2.55m to 3m. It is intended that the lane be provided with a new passing-place and re-surfaced with tarmac, avoiding loss/significant harm to any protected trees. Likewise, the dwelling has been pushed back from the lane further than originally intended, and the position & form of construction for the new drive/hardstanding it leads designed to avoid loss/significant harm to the mature trees fronting this part of the lane. It is stated that the number of trees to be removed is limited and principally involves trees set well back from the lane and which are poor condition/poor specimens, any felled trees are to be sympathetically replaced elsewhere on the plot to compensate for any loss to the biodiversity.

It is also stated that consideration has been given to use of sustainable methods of drainage - including a soakaway for rainwater and a septic tank with sewage treatment plant for the foul-waste - alleviating the need for large amounts of excavation to provide/connect to public sewers and thereby do damage to tree roots.

The application is accompanied by:

- A Design & Access Statement & Heritage Statement
- A Ground Contamination Report
- A Topographical Survey
- A Tree survey
- An Ecological Survey

The Applicant has submitted letters from Rossendale Harriers and Athletic Club and 38th Rossendale (Open) Scout Group expressing no objection to the application.

5. POLICY CONTEXT

National

National Planning Policy Framework

Section 2	Achieving Sustainable Development
Section 5	Delivering a Sufficient Supply of Homes
Section 6	Building a Strong, Competitive Economy
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well-Designed Places
Section 14	Meeting the Challenges of Climate Change, etc
Section 15	Conserving and Enhancing the Natural Environment
Section 16	Conserving and Enhancing the Historic Environment

Development Plan Policies

Rossendale Core Strategy (2011)

AVP1	Area Vision for Whitworth, Facit & Shawforth
Policy 1	General Development Locations and Principles
Policy 8	Transport
Policy 9	Accessibility
Policy 16	Preserving & Enhancing the Built Environment
Policy 17	Rossendale's Green Infrastructure
Policy 18	Biodiversity, Geodiversity and Landscape Conservation
Policy 19	Climate Change, etc
Policy 23	Promoting High Quality Designed Spaces
Policy 24	Planning Application Requirements

Other Material Considerations

National Planning Practice Guidance

RBC Cloughfold Conservation Area, and its Character Appraisal (2011)

RBC (Newchurch Road, Higher Cloughfold) Tree Preservation Order 2011

6. CONSULTATION RESPONSES

RBC Conservation

Overall the development is considered to cause harm, but less than substantial harm, to the Conservation Area given the loss of the trees, scale and massing of the development. I am not convinced by the argument that, on balance, the harm is outweighed.

RBC Tree Consultant

Objection due to the loss &/or damage to protected trees on the site.

RBC Ecology Consultant

No objection subject to conditions.

RBC Contaminated Land Consultant

No objection.

LCC Highways

Objection.

The proposed dwelling would generate an increase in vehicular traffic movements using the existing vehicular access onto Newchurch Road which would be substandard, to the detriment of highway safety and residential amenity.

7. REPRESENTATIONS

To accord with the General Development Procedure Order a press notice was published, a site notice was posted and letters were sent to neighbours.

Twenty-five objections to the application have been received, the following reasons being given:

- Out of keeping with character of area
- Over development / Development too high
- Too close to adjoining properties: Loss of privacy / Loss of light
- Traffic/Highways: Increase in traffic / Inadequate access / Loss of parking / Pollution
- Strain on existing community facilities
- Potentially contaminated land
- Increase danger of flooding
- Affect local ecology
- Conflict with local plan

In amplification, the following points have been made:

- This is a beautiful wooded area, home to plenty of wildlife. The site is a habitat for birds, bats, foxes, deer and others.
- I am not a professional naturalist, but conduct bat surveys for the Bat Conservation Trust and bird surveys for the British Trust for Ornithology (BTO) and have done so for a number of years. My species list for the site includes six species of birds and one of bats which are on the list associated with section 41 of the 2006 Natural Environment and Rural Communities (NERC) Act. Nine of the bird species are on the BTO 'red' list and a further three on the 'amber' list.
- The proposal would result in the loss of this important and valued community space for informal recreation and play - valued by residents of Springhill & Newchurch Road, and used by local children to safely walk to Alder Grange school & play, and by dog walkers, scout troops, orienteering groups, the Harriers running club to name a few.
- As usual the reports submitted with the application suggest that most of the trees to be removed are of low grade. These 'low grade' trees are the trees we have - they are what makes the valley green and attractive...and we fear future requests to remove more trees to reduce shadow.
- The size of the proposed development is out of proportion to the proposed plot and completely out of scale and character with the surrounding dwellings, most of which are stone-built and within the Cloughfold Conservation Area.

- Residents of twelve Springhill and Newchurch Road properties would lose their woodland aspect for the benefit of one family...The applicants stated desire for extreme amounts of natural light has resulted in very large windows which will rob neighbours of privacy.
- The application includes the statement that *'The proposal includes off street parking and ample turning space within the house's curtilage and the proposed new boundary does not disturb any existing parking that is currently used by the surrounding neighbours.'* This is not the case as the proposed access to the property runs directly where I currently park.
- Parking spaces that have been used by residents to date, in some cases for over 50 years, will be removed...Currently there are 5 properties which use the lane for access or parking...The turning area is adequate but would not support any further traffic.
- The addition of a further 6 cars would lead to increased congestion and either block the turning area or lead to residents having to reverse onto the busy Newchurch Road on a blind bend adjacent to two bus stops. Six additional vehicles would also add significantly to the noise pollution of the area.
- 422 Newchurch Road has its front door open directly onto the lane. There is no pavement or space for one. The occupants will be directly exposed to the increased traffic and the greatest risk from larger vehicles the applicant has stated are needed for the family.
- The entry/exit point onto Newchurch Road is at a difficult position, just before a bend and junction with Dobbin Lane, with poor sightlines frequently causing hold-ups to traffic at peak times... almost opposite Higher Cloughfold Store which has a steady flow of cars parking and nearby bus stops, one directly opposite the lane and one opposite the shop...There have been several accidents over the years with collisions occurring between vehicles travelling along Newchurch Road not appreciating that the stationary vehicle is waiting to turn into this insignificant-looking lane. With a further 7 parking spaces proposed this would potentially double the danger.
- LCC Highways states that the lane will need to be widened to 5.5m for a minimum of 7m from Newchurch Road highway. This cannot be executed without destruction of mature trees which are protected by preservation orders and disturbance of stone gateposts dating back to c1800 and forming part of the original Springhill Estate located in the Cloughfold Conservation Area.
- The proposal will worsen the already poor situation regarding run-off... the north end of the site abutting marl pits can get severely flooded and is very boggy when we experience adverse weather.
- We appreciate the circumstances of the applicant's family and the emotions associated with this, however we ask that a decision be made solely on planning grounds.
- There is not enough benefit from the construction of 1 house to justify the adverse impact it will have on every one of the 12 surrounding properties.
- The fact that this family require 2 large vehicles to transport their children with disabilities (which in their statement is the main reason for this build) immediately negates their point that here they are close and accessible to the leisure centre, shops, pub etc.

- The application suggests that other suitable land is not available, yet clearly this is not the case. There are several areas of former industrial use of similar or bigger size, with better vehicular access for sale within 2 miles of the proposed site which would fulfil the national and local targets for building on brownfield rather than greenfield sites. Even were that not the case there are several already built houses for sale within the Rawtenstall area which could be adapted for the special needs of these two children and their potential future carers.
- If despite all this the authority is minded to approve this application there are obvious risks from construction in this area, not least to the structure of the lane, the services and potentially to the adjoining houses. In this case where the applicant also owns the shared amenity over which the neighbours have right of access, there is little action that can be taken by individuals to enforce reinstatement or compliance with planning conditions. The council has the statutory power to require a bond against potential damage caused to shared amenities (the lane, services and drainage) and adjoining properties during construction, and to ensure use of mitigation methods such as the protection of tree roots, use of appropriate containment cells to protect trees under driveways etc. I would suggest that a development like this is exactly the kind of situation this power was designed for.

Local residents who presently make use of the lane also engaged DTPC to provide objections on wider planning and impacts of trees etc and detailed objections from a highway engineering and safety point of view to the application. It makes the point that the other users of the drive have accrued parking and access rights over time - the access should be considered a shared access. DTPC's submission was forwarded to LCC Highways for comment.

8. APPLICANTS RESPONSE TO CONSULTEE / NEIGHBOUR COMMENTS

Response to Consultee Comments:

- We would prefer to keep trees rather than widen the lane to 5.5m as requested by LCC Highways and thereby have to remove trees in the Conservation Area.
- An alternative plan has been submitted showing 2 passing places on the access lane. We have also shown the turning area on the driveway of the proposed house for cars to leave in forward gear, which should prevent any reversing onto the lane.

Response to Neighbour Comments:

- Once the applicants had concluded that the only way the family's needs could be met would be to create a new home the Council was approached for a list of available sites - this was the only site that met all the needs. They seek a site in Rossendale to be near the schools of the children and the family need to remain here to keep connections and relationships.
- The access lane has already been purchased. The land to accommodate the dwelling is council owned - no one else owns or can claim they have a right to a parking space upon it. It is also worth mentioning the lane gives access to two existing houses, the other houses here have their back to it and have alternative access to the front via other routes.
- The proposed dwelling is not within the Conservation Area. The only change to the Conservation Area is the movement on the stone pillars to widen the access onto Newchurch Road and thus making it safer. The stone pillars are to be carefully reinstated to English Heritage standards. None of the protected trees within the Conservation Area are proposed for felling.

- The existing footpath extending from the lane towards Marl Pits Sports Ground is outside the application site and will not be disturbed by this proposal. The proposed perimeter of the garden is to be screened by suitable native hedging and planted trees.

9. ASSESSMENT

The main considerations in determining the application are:

- 1) Principle; 2) Greenlands/Ecology; 3) Heritage/Visual Amenity;
- 4) Neighbour Amenity; & 5) Access/Parking

Principle

The Council's adopted Core Strategy seeks to maintain Rossendale's distinctive character by ensuring the greatest amount of new housing takes place within Rawtenstall, with the majority of other housing in Bacup and Haslingden. However, the Council cannot presently demonstrate that it has a 5-year supply of available housing land. The NPPF states that where the Development Plan is absent, silent or relevant policies are out-of-date permission should be granted to proposals unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

In this instance the proposed dwelling would stand on a site in the Countryside, but immediately adjacent to the Urban Boundary of Rawtenstall, the largest of the settlements within the Borough and the settlement for which Policy 3 of the Core Strategy proposed the largest number of new dwellings. The site is near to a main road, along which bus services operate, making it accessible by means of travel other than the private car. Accordingly, the site cannot be considered remote or unsustainable.

Greenlands/Ecology

The site also forms part of part of a Greenland - areas which Policy 17 of the Core Strategy seeks to protect for their amenity, recreation and nature conservation value, contribution to landscape character and to act as 'breathing spaces' for more built-up areas. Policy 17 of the Core Strategy seeks to resist fragmentation of the green infrastructure network. It is considered that the proposed scheme would reduce significantly the benefits to amenity provided by the Greenland in question, and would have a negative impact on the site's value and function as part of the Borough's green infrastructure network.

Whilst the existing footpath extending from the lane towards Marl Pits Sports Ground will remain it will cease to run through a broad swathe of woodland. The proposed dwelling, and its garden, will mean an easily-accessed area that meets informal recreational needs of the local community will cease to be available to them.

The Council's Ecology Consultant has assessed the submitted Ecological Report, and accompanying Bat Survey, and has raised no objection to the application subject to confirmation that a veteran pollarded willow is to be retained and conditions to:

- preclude works that disturb nesting birds or go beyond removal of identified tree/vegetation;
- &
- protect tree/vegetation to be retained during the construction phase and secure suitable compensation for harms/enhancement of biodiversity.

Heritage/Visual Amenity

The access to the site and surrounding properties lie within the Cloughfold Conservation Area, and its Character Appraisal identifies trees on the frontage of the site of the proposed dwelling as '*Important Trees/Tree Groups*' in terms of the character and appearance of the Conservation Area.

Section 72 of the Planning (Listed Buildings and 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 Section 16 of the NPPF, Policy 16 of the Council's 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."*

The Council's Conservation Officer has advised:

"The proposed building has considerable massing and appears to disproportionate to the dwellings in the immediate area. There are some of similar scale however these are historic properties and are of a much grander design and a part of the historic core of the Conservation Area. There are single storey/ bungalows to the north of the Conservation Area, however these are of a much lesser scale and massing. While there is understanding for the reasons of the scale the development will appear incongruous to the area. It would also break from the street and development pattern of the area. Development should look to enhance the area or better reveal the significance of the area.

The design is considered reasonable. The use of natural stone is positive. However, the use of artificial slates and composite windows is not supported.

Overall I consider the development would have a less than substantial harm to the Conservation Area and it would be required to be assessed on the planning balance as to whether its harm is outweighed. However, given the loss of the trees, scale and massing of the development, I am not convinced by the argument."

The Council's Tree Consultant has advised:

"A response to objections has been submitted along with revised drawings.

I originally had two main objections to the scheme based upon loss or significant damage to protected trees.

The first objection related to the driveway having to pass between two trees T9 (Sycamore) and T12 (Ash) and the significant unacceptable root damage which would be done by the necessary reduction of levels to allow an even surface between the existing lane and the parking areas to the front of the house. This issue has not been addressed.

The second objection related to the need to remove TPO tree T4 to achieve the widened driveway as preferred by LCC Highways. A revised driveway scheme has been submitted which shows two passing places each of which allows two vehicles to pass. There is already one such passing place between trees T6 and T8...If it were to be in exactly the position of the existing it would not entail any level reduction and would be acceptable given a no-dig technical solution in accordance with BS 5837 (2012). The second proposed passing place is closer to the entrance gate between trees T4 and T6 and would entail some ground level reduction in the grass verge to the west of the driveway close to the tree's trunks which will be damaging. This would however be technically possible and acceptable provided the level in the passing bay was constructed to a slight up-gradient with only the minimal vegetation removed and again in accordance with BS 5837 (2012).

The matter of the misleading down-graded description of the quality of the trees does not appear to have been addressed.

In conclusion, I cannot support this application due to the on-going loss and/or damage to protected trees on the site.”

Neighbour Amenity

The proposed dwelling will not detract to an unacceptable extent from the light/outlook/privacy neighbours of nearby dwellings currently enjoy or could expect to enjoy from their dwellings and gardens. Neighbours objection to the proposal for access and parking reasons are considered below.

Access and Parking

LCC Highways has advised:

“Based on LCCs maximum parking standards 3 parking spaces would be sufficient for this proposal. However, the applicant proposes 6 parking spaces within the curtilage of the development site. The existing access appears to be the sole access to 2 dwellings and provides a secondary rear access to a further 4 properties...This being the case the access should be a minimum of 5.5m in width for a minimum distance of 7m into the site (measured from the back of the footway of Newchurch Road) to allow opposing vehicles to pass at the site entrance. The turning requirements of the existing vehicles using this access should also be accommodated to reduce/remove any necessity to reverse out onto Newchurch Road.

The access for construction vehicles is a concern... it would be necessary to submit a plan of how materials and plant will be delivered to site without causing disruption to traffic flow on Newchurch Road and impacting upon highway safety. The loading and unloading of materials on Newchurch Road will not be acceptable.

A 3m width drive does not allow two-way flows or two cars to pass each other near the access with Newchurch Road. Thus, a car entering would have to wait until the car exiting undertook the full movements along the drive blocking the main road.

...subject to the submission of further details fulfilling the above requirements, no objection would be raised to the proposal on highway grounds. However, in respect of the application as submitted, I would raise an objection to the proposal on the grounds that the proposed new dwelling would generate an increase in vehicular traffic movements using the existing vehicular access onto Newchurch Road which would be substandard, to the detriment of highway safety and residential amenity.”

Conclusion

The Applicant has set out their case for requiring a 7-bedroomed dormer-bungalow specifically designed at ground floor level to meet the requirements of their two disabled children, and it can be appreciated why they would wish to build it within 1km of their existing home. However, the disabilities of the 2 boys is such that cars/vans will generally be used if they are to travel to or from home, enabling any geographic search for a suitable site to build a new house to be broad.

Notwithstanding that the Council is not presently able to demonstrate it has a 5-year supply of deliverable housing sites and the personal circumstances of the Applicant, on balance it is considered that the harm the proposal will cause unacceptable and unnecessary harm to the character and appearance of Countryside/Greenland, Cloughfold Conservation Area and highway safety.

10. RECOMMENDATION

Refusal

REASONS FOR REFUSAL

Notwithstanding that the Council is not presently able to demonstrate it has a 5-year supply of deliverable housing sites and the personal circumstances of the Applicant, on balance it is considered that the harm the proposal will cause unacceptable and unnecessary harm to the character and appearance of Countryside/Greenland, Cloughfold Conservation Area and highway safety. The proposal is considered contrary to Sections 2 / 5 / 6 / 9 / 11 / 12 / 15 / 16 of the National Planning Policy Framework and Policy 1 / 9 / 16 / 17 / 18 / 23 of the Council's adopted Core Strategy (2011).