

<b>Application Number:</b>	2014/0077	<b>Application Type:</b>	Full
<b>Proposal:</b>	Construction of Two Storey Building Comprising Twelve, one Bedroom Flats and Four Two Bedroom Flats	<b>Location:</b>	Land Adjacent 123 Burnley Road Rawtenstall BB4 8HH
<b>Report of:</b>	Planning Unit Manager	<b>Status:</b>	For publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	22 April 2014
<b>Applicant:</b>	Green Vale Homes	<b>Determination Expiry Date:</b>	5 <sup>th</sup> June 2014
<b>Agent:</b>	Bernard Taylor Partnership Ltd		

<b>Contact Officer:</b>	Richard Elliott	<b>Telephone:</b>	01706-238639
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<b>REASON FOR REPORTING</b>	
<b>Outside Officer Scheme of Delegation</b>	
<b>Member Call-In</b> Name of Member: Reason for Call-In:	
<b>3 or more objections received</b>	
<b>Other (please state):</b>	<b>Major</b>

## HUMAN RIGHTS

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

### Article 8

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

### Article 1 of Protocol 1

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

## 1. RECOMMENDATION

That Committee be minded to refuse the application if the Environment Agency has not withdrawn its objection to the scheme by 22 April 2014.

However, should the objection be withdrawn that Committee be minded to approve Permission subject to a S.106 Obligation to secure payment of Contributions and the Conditions set out in Section 10.

## **2. SITE**

The application site comprises a vacant site of approximately 0.25 hectares located to the east side of Burnley Road Rawtenstall and approximately 750m north of Rawtenstall Town Centre.

The site, which has one vehicular access point from Burnley Road, was previously a bleach works, and following that a care home which was subsequently demolished in around 2006. The land is now made up of areas of hardstanding, some trees and patches of vegetation, with security fencing to its Burnley Road frontage.

To the opposite side of Burnley Road are traditional stone and slate terraced housing, and one commercial property. To its north is an electricity substation and an garage/outbuilding which is associated with an adjacent stone dwelling which has its gable facing the site.

The River Irwell is located immediately to the rear of the site, running on a north-south axis. Trees are located along its bank and which overhang the site. Beyond, the land rises to residential properties on Lee Brook Close, screened significantly by the trees.

To the south of the site is the Grade 2 listed St James the Less RC Church, set back from the road frontage and with its side facing the site. It is separated from the site by a brick wall to a height of approximately 2m and contains a number of mature trees close to its boundary.

## **3. RELEVANT PLANNING HISTORY**

None.

## **4. PROPOSAL**

Planning permission is sought for the construction of a building comprising twelve, one bedroom flats and four two bedroom flats. To be funded by the Homes and Community Agency (HCA), the houses would be let as affordable rent units to those over the age of 55 (let at a reduced market rate no more than 80% of the local market rent), and would be managed by Green Vale Homes. The applicant advises that the houses would meet Code for Sustainable Homes Level 3 and they would be Lifetime Homes compliant.

The building would be set back from Burnley Road by approximately 16m set in from the southern boundary with the Church by 4.8m. The building would be raised by approximately 2m having regard to the submitted Flood Risk Assessment, would have an eaves height of approximately 7m and a ridge height, to its highest point, of 12m. The building would be roughly rectangular in shape, constructed in artificial stone and tile, with three front gables and windows with stone surrounds.

To the north of the building a total of 16 parking spaces and a turning facility are proposed, accessed via the existing access point off Burnley Road. Bin storage and bike storage would be to the north eastern corner of the building.

A landscaping scheme has been proposed for the site, providing for lawns to the front and rear, retaining all but one tree to the boundary with the Church and felling 4 trees to the north-west corner of the site.

The applicant has stated that due to the costs of delivering the scheme it is considered that it is not financially viable to make a financial contribution towards public open space provision. The proposed scheme is for the use of over 55's and will have no impact on the existing play area, and

will have no impact on education capacity. It is also close to all local amenities and score high on the accessibility questionnaire.

Two community consultation events were held prior to the submission of the application, where residents were able to provide feedback and leave comments. The scheme has been designed having regard to the comments received.

## **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 8 Promoting Healthy Communities
- Section 10 Meeting the Challenges of Climate Change, Flooding, etc
- Section 11 Conserving and Enhancing the Natural Environment
- Section 12 Conserving and Enhancing the Historic Environment

### **Development Plan Policies**

#### **Rossendale Core Strategy DPD (2011)**

- AVP 4 Rawtenstall
- Policy 1 General Development Locations and Principles
- Policy 2 Meeting Rossendale's Housing Requirement
- Policy 3 Distribution of Additional Housing
- Policy 4 Affordable & Supported Housing
- Policy 8 Transport
- Policy 9 Accessibility
- Policy 18 Biodiversity and Landscape Conservation
- Policy 19 Climate Change and Low & Zero Carbon Sources of Energy
- Policy 22 Planning Contributions
- Policy 23 Promoting High Quality Design & Spaces
- Policy 24 Planning Application Requirements

### **Other Material Planning Considerations**

- National Planning Practice Guidance (2014)
- LCC Planning Obligations in Lancashire (2008)
- RBC Open Space & Play Equipment Contributions SPD (2008)

## **6. CONSULTATION RESPONSES**

### **Environment Agency**

#### **Object**

The FRA submitted with this application does not comply with the requirements set out in section 10, paragraph 30 of the Flood Risk and Coastal Change (FRCC) guidance category of the Planning Practice Guidance (PPG). The FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the FRA fails to:

1. Take the impacts of climate change into account;
2. Consider how people will be kept safe from flood hazards identified;

3. Consider the effect of a range of flooding events including extreme events on people and property; and
4. Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.

We have recently provided the applicant's consultant with comments on the content of the FRA. Although the mitigation measures outlined in the FRA would restrict the impact of flooding on the proposed development, we highlighted the following points and suggested that they be reviewed. Particularly, the issue of safe access and consultation with your emergency planners should be addressed.

Section 4.1.4 refers to climate change and the lack of modelled results from our model. It is stated that adding 20% to the 1% flood flow gives a result higher than the 0.1% flood flows and, as such, that this is considered an overestimate. We do not believe that the applicant can conclude this to be an overestimate. Adding 20% to fluvial flows is considered appropriate for the purposes of the National Planning Policy Framework.

Section 4.3.1 refers to the current United Utility sewerage schemes being carried out in the upper Irwell catchment. We would point out that these schemes are primarily related to water quality improvements. Sewage overflow to watercourses will still occur during heavy rainfall but overall peak discharge overflow rates will not increase.

In terms of access/egress covered in section 5.5, it is identified that a route to higher ground would require crossing Burnley Road. As flood flows are likely to be present on the road and flowing quickly due to the road gradient, safety is likely to be reliant on prior evacuation or refuge in the building which is not ideal.

The FRA clearly identifies that the site is at high risk and the LPA will need to determine the suitability of this site for housing in relation to the Sequential Test of the NPPF. The developer will need to address this issue with the LPA and there will also be a need to take the view of the emergency planner into consideration when considering emergency access/egress. The FRA does not appear to have been revised to address the above points.

### **Reason**

The proposed development is unacceptable because it involves building unacceptably close to Limy Water and would be unlikely to receive Environment Agency consent. The proposed north-east corner of the building, associated fencing and bike and bin stores would restrict essential maintenance and emergency access to the watercourse. The permanent retention of a continuous unobstructed area is an essential requirement for future maintenance and / or improvement works.

### **Overcoming our objection**

It may be possible to overcome our objection by submitting a revised FRA which covers the deficiencies highlighted above and demonstrates that the development would have safe access/egress. The layout must also make provision for maintenance access to the bank top of Limy Water. If this cannot be achieved we are likely to maintain our objection to the application. We will provide you with bespoke comments within 21 days of receiving formal reconsultation.

### **Advice to applicant/LPA**

Limy Water is designated "Main River" and is subject to Byelaw Control. In particular, no works may take place within 8 metres from the bank top of the watercourse without our prior consent. 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

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

No objection subject to a condition regulating construction working hours and that no waste shall be burned on site.

### **RBC (Strategic Housing)**

No objection

### **LCC (Highways)**

This development is located on a busy non trunk road. The development will see the creation of 16 accommodation units, a mix of 12 single bedroom places and 4 2 bedroom properties. All will be apartment style.

Under the parking levels set out in the Joint Lancashire Structure Plan residential units should have off road parking levels at the following ratios:

- 1 bedroom property – 1 space
- 2 – 3 bedroom property – 2 spaces

This would mean that the site should have parking for 20 cars. The current proposal includes 16 parking spaces within the curtilage of the site, which equates to a single space per property. This means that the 2 bedroom properties will not have the required parking levels. It is also unclear as to whether the parking spaces are to be allocated to each property and how this will be enforced. The site is located close to a number of local amenities and there are good bus links to the site. Given this good accessibility I believe that in this case the parking requirements can be reduced by 20% (4 spaces) so the proposed parking levels will be acceptable. It is recognised however that this is the minimum parking that will be acceptable and does not include provision for visitors to the site.

Parking spaces should be a minimum of 2.4m by 4.8m with a distance of 6m behind them to enable vehicles to manoeuvre into and out of them. Currently the proposal is that there is only 5.7m behind each space which could lead to problems of reversing. This might be especially of concern given the target audience for the housing and the limited body movements that can be an issue with the elderly.

The site will utilise an existing highway access point with a current dropped kerb. This has acceptable visibility levels for the access in theory but there is an issue with parking along the highway to the front of the site which will reduce visibility to unacceptable levels. The development cannot control parking external to its boundary so it is requested that the developer, through the highway authority, funds the pursuing of a no waiting at any time Traffic Regulation Order for a distance of 30 metres each way from the centre of the access road and a distance of 5 metres into the site. This will ensure visibility for traffic entering and leaving the site is maintained.

In order to maintain the visibility any fences or planting adjoining the highway should not be any greater than 900mm in height.

It is also recommended that prior to any construction work commencing a construction management plan is produced to identify how any potential impact on the adopted highway can be minimised.

Given the above subject to the issues identified I have no highway objections to this application.

**LCC (Education)**

No contributions required in this instance.

**United Utilities**

Awaiting Comments

**Lancashire Constabulary**

Recommendations have been made to reduce the opportunity for crime and disorder, however, there is no objection to the scheme.

**7. NOTIFICATION RESPONSES**

To accord with the General Development Procedure Order a press notice was published on 28/03/2014, a site notice was posted on 25/03/2014 and letters were sent to neighbours on 24/03/2014.

No comments have been received to date.

**8. ASSESSMENT**

The main considerations of the application are :

1) Principle) 2) Flood Risk; 3)Visual Amenity/Heritage Impact; 4) Neighbour Amenity; 5) Access/Parking; 6) Ecology; & 7) Planning Contributions.

Principle

The land is sustainably located on previously developed land within the Urban Boundary of Rawtenstall.

Land Contamination:

A phase one contaminated land report has been provided and which does highlight issues with contaminants on the site. It recommends a phase 2 intrusive survey be carried out. It is considered that this and any subsequent remediation/verification works can be appropriately conditioned.

Flood Risk:

The site is located within Flood Risk Zone 3 and is therefore at a high risk from flooding.

As set out in the National Planning Policy Framework, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

A sequential test is required to steer new development to areas with the lowest probability of flooding.

However, given that the scheme proposes a 'More Vulnerable' use as described within the NPPF Technical Guidance it would only be suitable if the further test – The Exceptions Test - is passed.

“For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

Given the site is sustainably located, would provide and meet a need for 100% affordable housing, has previously had residential accommodation upon it and following demolition does have a rather unkempt run down appearance, I am satisfied that there are substantial benefits to the community that would occur.

However, with an objection from the EA currently before me, it has not yet been demonstrated, and nor am I satisfied, that the development as proposed will be safe for its lifetime having regard to flood risk.

The EA are currently looking at a revised Flood Risk Assessment submitted by the applicant. This could result in the EA withdrawing their objection.

#### Housing Policy

The scheme is compliant with the Council's Housing Policy; the land constitutes previously developed land within the Urban Boundary of Rawtenstall and the scheme would provide for 100% affordable rent housing for over 55's, a tenure considered appropriate in this location by the Council's Housing Manager.

#### Visual Amenity/Heritage Impact

S.66 (1) of the T&CP (Listed Buildings & Conservation Areas) Act 1990 states that in the determination of applications affecting Listed Buildings, and their settings, the Council must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses.

Paragraph 131 of the NPPF states:

*"In determining planning applications [that affect heritage assets], account should be taken of:*

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness."*

Paragraph 132 states *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be."*

Paragraph 134 states *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."*

Consistent with the NPPF, Policy 16 of the Council's Core Strategy seeks to ensure that all development is:

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

The proposed building would be significant in terms of its size, height and position. I am, however, satisfied that what is now proposed would, with that in mind, not cause substantial harm to the significance of the adjacent listed building, particularly so having regard to the retention of the trees to that boundary, which do act as a significant buffer, and the development on the site previously which encroached further towards the road and nearer to the boundary with the Church. The building would be set back from Burnley Road, so as not to be unduly dominating within the street scene and the mass of the building is broken up by various front gables.

The proposed facing materials are to be artificial stone and tile, and the proposed visualisations do show the building as being somewhat bright and discordant; almost all of the buildings along that immediate area of Burnley Road being natural stone and natural slate. In my opinion, if not using natural materials, artificial materials that very closely replicate those should be used.

In terms of landscaping, I am satisfied that the trees to be removed are not individually of particular amenity value such that their loss would cause harm to the area, and those outside of the site boundaries would not be harmed. However, the overall scheme of landscaping does appear somewhat sparse particularly when viewed from the Burnley Road frontage. I consider that a more robust landscaping scheme should be provided.

Subject to the above the scheme is considered acceptable in terms of visual amenity/heritage impact.

#### Neighbour Amenity

Separation distances between neighbouring properties are considered acceptable. Taking into account the proposed scheme and previous developments on site I do not consider that there would be a material increase in noise and disturbance that would be unduly detrimental to existing residents in the area. The scheme is considered acceptable in terms of neighbour amenity.

#### Access / Parking

I concur with the Highway Authority that the number of spaces proposed within the site is acceptable, however, revisions to the dimensions of the spaces is required to bring them up to standard. I am satisfied that the area can absorb any increase in traffic resulting from the development. The Highway Authority has expressed concerns with regards to visibility splays along that stretch of Burnley Road either side of the site access. It is considered appropriate and necessary that the applicant should contribute towards the investigation into a Traffic Regulation Order for that area to ensure that there are acceptable vicinity levels upon exiting and entering the site.

#### Planning Contributions

No contributions have been sought by LCC Education.

Having regard to the Council's SPD there would be a requirement to make a contribution of £21,856 towards Open Space and Play provision.

The contribution towards the investigation into a Traffic Regulation Order would be approximately £2000.

There would also be a contribution of £1600 towards bin provision (£100 per unit).

The applicant has stated that they would, for viability reasons, having regard to the costs associated with redevelopment of the site not be in a position to provide such a contribution, and that in any case the scheme would bring about significant regeneration benefits.

I am satisfied with the scheme providing for 100% affordable housing for the over 55's, and which would redevelop a prominent, vacant site in a sustainable location, that it would not be necessary in this instance that a public open space contribution be sought. I do however, consider that the TRO contribution is necessary and that monies are provided for the provision of bins.

## **9. RECOMMENDATION**

That Committee be minded to refuse the application if the Environment Agency has not withdrawn its objection to the scheme by 22 April 2014.

However, should the objection be withdrawn that Committee be minded to grant Permission subject to :

- a) A S.106 Obligation to secure payment of Contributions of £2,000 to cover the cost of a Traffic Regulation Order and £1600 towards the cost of providing waste bins to each property; &
- b) The Conditions set out below.

### **SUMMARY REASON FOR APPROVAL**

The scheme would provide for affordable rent housing on a brownfield site within the Urban Boundary of Rawtenstall, and as such is considered acceptable in principle, and subject to conditions would not have a detrimental impact on the setting of the adjacent Grade II Listed Building, visual amenity, neighbour amenity and highway safety.

The development is considered to accord with Sections 1, 4, 6, 7, 8, 10, 11 and 12 of the National Planning Policy Framework, and Policies 1, 2, 3, 4, 8, 9, 16, 18, 19, 22, 23 and 24 of the Council's adopted Core Strategy DPD (2011).

## **10. CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.
2. The development shall be carried out in accordance with the submitted plans and shall be constructed to meet Lifetimes Homes Standard and to achieve Code for Sustainable Homes Level 3, unless otherwise required by the conditions below or first agreed in writing by the Local Planning Authority.  
Reason: To ensure the development complies with the approved plans and submitted details, in accordance with Policies 1 and 24 of the adopted Core Strategy DPD.

3. No development shall take place until samples of the facing materials to be used in the construction of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason : In the interests of visual amenity, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

4. Prior to commencement of development the following shall be submitted to the Local Planning Authority:
  - a) A Contaminated Land Phase II Report to assess the actual/potential contamination risks at the site for approval by the Local Planning Authority.
  - b) 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.
  - c) 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).

5. Prior to commencement of development full details of the measures to be taken for the avoidance/mitigation of harm to wildlife shall be submitted to the Local Planning Authority. Development shall not commence until details of the measures to be taken have been approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved details.

Reason: To ensure development of the site proceeds in a safe and satisfactory form, having regard to the findings of the submitted Ecology Report/Bat Survey and to accord with Policies 1 and 24 of the Council's adopted Core Strategy DPD (2011).

6. All the residential units hereby permitted shall be Affordable Rented Housing as defined within Annex 2 of the National Planning Policy Framework (2012) or any future guidance that replaces it, and be 'for renting to over the age of 55 residents', unless otherwise approved in writing by the Local Planning Authority. No dwelling hereby permitted shall be occupied until the following details have been submitted to and approved by the Local Planning Authority : The occupancy criteria to be used for determining the identity of occupiers of the affordable housing, which will be subject to a local lettings policy through the Council's Choice Based Lettings System and will provide a cascade clause which pertains to Rawtenstall first and the means by which such occupancy criteria shall be enforced. The development shall be maintained as such and shall not be varied unless otherwise first agree in writing by the Local Planning Authority.

Reason : To secure the provision of Affordable Housing, in accordance with the application submission, to contribute to meeting housing needs within the area and Policy 4 of the Council's adopted Core Strategy DPD (2011).

7. Prior to first occupation of any of the flats hereby permitted all the car parking and turning spaces shown shall be constructed, drained, surfaced and delineated in accordance with the submitted details prior to first occupation of any of the houses hereby permitted, and thereafter kept available for use as such, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of pedestrian and highway safety in accordance with Policies 1 and 24 of the Council's Core Strategy DPD.

8. Prior to commencement of development a scheme of landscaping and boundary treatment shall be submitted to the Local Planning Authority to include details of : retaining walls/boundary walls/fences/gates/hard-surfaced external areas; measures for the protection of trees to be retained. Any retaining walls/boundary walls/fences/gates/hard-surfaced external areas forming part of the approved scheme shall be completed prior to first occupation of any of the flats hereby approved. Any measures for the protection of trees to be retained forming part of the approved scheme shall be complied with for the duration of ground works / construction works associated with the development hereby approved. Any planting forming part of the approved scheme shall be carried out in the following planting season and any trees or shrubs removed, dying or becoming seriously damaged or diseased within 5 years of planting shall be replaced by trees or shrubs of a similar size or species, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will be of satisfactory appearance, in accordance with Policies 1 and 23 of the Council's Core Strategy DPD (November 2011).

9. This site must be drained on a separate system, with only foul drainage connected into the foul sewer.

Reason: To prevent flood risk, in accordance with comments received from United Utilities and Policies 1 and 24 of the adopted Core Strategy DPD (2011).

10. Prior to the commencement of development a Site Construction Plan shall be submitted to and approved in writing by the Local Planning Authority. The Site Construction Plan shall include details of : the vehicle wheel-cleaning facilities; construction traffic parking; & construction compound location. The approved Site Construction Plan shall be implemented and adhered to throughout the demolition/remediation/construction period.

Reason: To protect the amenities of neighbours and in the interests of pedestrian/highway safety, in accordance with Policies 1 and 24 of the Council's adopted Core Strategy DPD.

- 11 Any ground / construction works associated with the development hereby approved, including deliveries to the site, shall not take place except between the hours of 7:00am and 7:00pm Monday to Friday and 8:00am and 1:00pm on Saturdays. No construction shall take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

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