

Application Number:	2021/0623	Application Type:	Full Major
Proposal:	Full: Demolition of existing buildings and erection of a residential development of 104 dwellings, together with associated open space and car parking.	Location:	Grane Road Mill Grane Road, Haslingden Rossendale BB4 4PL
Report of:	Head of Planning and Building Control	Status:	For Publication
Report to:	Development Control Committee	Date:	28 June 2022
Applicant:	Blackmores D LTD	Determination Expiry Date:	24 April 2022
Agent:	Calderpeel		

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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):	✓ Major application - 15 or more dwellings

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 planning permission for the reasons listed in Section 10 of this report.

APPLICATION DETAILS

2. SITE

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The site is currently in employment use and forms the southernmost part of the Carrs Mill Industrial Estate. Its formal name is Grane Road Mill, however, it is known locally as Birtwistle’s Mill and extends to approximately 2.8ha in size.

The site previously comprised a number of industrial buildings of varying ages and conditions. Some of the buildings are dilapidated and have been subject to damage and theft. A fire in 2020 led to the later demolition of Grane Road Mill buildings, leaving only the retaining wall to Grane Road and the blocked bay windows of the former mill’s office, and Holme Spring Mill building.

Site levels range from approximately 198m AOD in the eastern extremity of the site adjacent to Jubilee Road to circa 188m AOD in the south eastern corner of the site.

The site is located to the south of Grane Road, to the west of the A56, and immediately to the west of Jubilee Road. The immediate surrounding area is characterised by a mix of industrial units and residential areas. As existing, vehicular access into the site is taken from Grane Road and Jubilee Road.

Within the recently adopted Local Plan, the site is within an existing employment area to be protected (referred to as EE16 – Carrs Industrial Estate).

The site is within the Urban Boundary and is ‘brownfield’ in planning terms. It is not within a Conservation Area nor does it contain listed buildings. However, Holme Spring Mill is a non-designated heritage asset. There are no Tree Preservation Orders on the site.

Immediately to the north of the site is an air quality monitoring station. The West Helmshore / Altham gas pipeline (ref 6811) middle and outer zones run through the middle of the site. The site lies within Flood Zones 2 and 3. A culverted Main River (Swinnel Brook) runs across the site in a north / south direction.

3. RELEVANT PLANNING HISTORY

Pre-application enquiry 2019/0073/preapp seeking advice from the Council on a residential development.

4. PROPOSAL

Full planning permission is sought for the demolition of all remaining buildings and the construction of 104 dwellings comprising the following mix:

- 11 x 2 bedroom dwellings
- 82 x 3 bedroom dwellings
- 11 x 4 bedroom dwellings

All dwellings are served by car parking spaces, which, depending on the particular plot, are provided in driveways, parking courts or assigned off-street parking spaces. There are 14 visitor spaces also. All dwellings have private gardens.

The materials palette comprises of rustic red and cream bricks for the elevations, grey concrete tiles to the roofs, uPVC linear casement windows in RAL 1035 and natural wood Accoya wooden main entrance doors.

The existing access from Grane Road will be reconfigured to form the access to 50 dwellings to the west of Swinnel Brook. In addition, a new access from Grane Road will be formed to serve the remaining 54 dwellings to the east of Swinnel Brook. Access from Jubilee Road is for pedestrians only. As part of the development, Swinnel Brook will be opened up / daylighted.

5. POLICY CONTEXT

National Planning Policy Framework (2021)

Section 2	Achieving Sustainable Development
Section 4	Decision Making
Section 5	Delivering a Sufficient Supply of Homes
Section 6	Building a strong, competitive economy
Section 8	Promoting Healthy and Safe Communities
Section 9	Promoting Sustainable Transport
Section 11	Making Effective Use of Land
Section 12	Achieving Well Designed Places
Section 14	Meeting the challenge of climate change, flooding and coastal change
Section 15	Conserving and Enhancing the Natural Environment

Development Plan

Rossendale Local Plan 2019-2036

Strategic Policy SS: Spatial Strategy
Strategic Policy SD1: Presumption in Favour of Sustainable Development
Strategic Policy SD2: Urban Boundary and Green Belt
Strategic Policy EMP1: Provision for Employment
Policy SD3: Planning Obligations
Strategic Policy HS1: Meeting Rossendale's Housing Requirement
Policy HS3: Affordable Housing
Policy HS7: Housing Density
Policy HS8: Housing Standards
Policy HS10: Open Space Requirements in New Housing Developments
Policy HS11: Playing Pitch Requirements in New Housing Developments
Policy HS12: Private Outdoor amenity space
Policy ENV1: High Quality Development in the Borough
Policy ENV4: Biodiversity, Geodiversity and Ecological Networks
Policy ENV6: Environmental Protection
Policy ENV9: Surface Water Run-Off, Flood Risk, Sustainable Drainage and Water Quality
Policy ENV10: Trees and Hedgerows
Policy TR4: Parking
Policy EMP2: Employment Site Allocations
Policy EMP3: Employment Site and Premises

Other material considerations

National Design Guide
National Planning Practice Guidance
RBC Strategic Housing Land Availability Assessment (SHLAA) (2017)
RBC Alterations and Extensions to Residential Properties SPD
LCC Planning Obligations in Lancashire (2008)

6. CONSULTATION RESPONSES

Consultee	Objection (yes or no)	Conditions
LCC Highways	No objection subject to amended plans	Yes and financial contributions
LCC Lead Local Flood Authority	Yes	Yes
Environment Agency	Yes	Yes
United Utilities	No	Yes
Greater Manchester Ecology Unit	No	Yes
Land Contamination Consultant	Yes	No
RBC Economic Development	Yes	No
RBC Environmental Health	No	Yes
RBC Tree Officer	No	Yes
RBC Operations	Yes	No
LCC Education	No subject to financial contribution	No – S106 Agreement
RBC Strategic Housing	No response received	
RBC Forward Planning	Yes	Yes an S106 Agreement
RBC Parks and Opens Spaces	No response received	
East Lancs NHS Trust	No subject to financial contribution of 177,477	No – S106 Agreement
Conservation Consultant	No	
LCC Archaeology	No	Yes

7. REPRESENTATIONS

To accord with the General Development Procedure Order site notices, neighbour letters and a press notice was published.

Two written representations have been received and both raise concerns in relation to a number of issues which are summarised as the following:

- Safety of two vehicular access points on Grane Road close to St Crispin Way;
- Management of dust / noise / general construction disturbance;
- Can the area cope with additional demands on local infrastructure and services?
- Concerns regarding retaining walls on the boundary with Jubilee Road;
- Concerns regarding pedestrian route from Jubilee Road; and
- Concerns that residents / visitors will park on Jubilee Road.

8. ASSESSMENT

Principle

Employment land

The site is within the Urban Boundary and is previously developed (brownfield) in planning terms. Parts of the site have been cleared and parts remain in active use. Within the Local Plan the

entire site is an existing employment site – EE16 ‘Carrs Industrial Estate’. Policies EMP2 and EMP3 serve to protect the use of the site for business, general industrial, or storage and distribution i.e. use classes E(g), B2 or B8.

Policy EMP3 seeks to protect the Borough’s employment sites to ensure that the Borough’s employment space needs can be met over the plan period. Planning applications for non-employment uses will be assessed against this strict criteria-based policy, and residential developments need to meet additional criteria within the policy to demonstrate a robust case that there is a lack of employment demand and that the site is no longer viable for employment uses.

The planning application is accompanied by the following information associated with Policy EMP3:

- Planning Statement (section 6 relating to loss of employment land);
- Savills letter outlining the extent of site marketing x 2;
- Savills marketing brochure (to let); and
- Savills interest schedule up to 30 September 2021.

The applicant submitted a Planning Statement within which it seeks to make the case that the proposed development is compliant with Policy EMP3. The site has been marketed for over 12 months for employment use and the following points are of note:

- The site was marketed by Savills from August 2020 – it is not clear when marketing ceased.
- The site was marketed for let only (not for sale) and no rental price is stated on the brochure.
- 17 enquiries were made between August 2020 and June 2021. No offers were received.
- For each enquiry received, the interest schedule states, *“marketing details were sent, but the subject premises is not of interest.”*

The Savills letter of 10 January 2022 acknowledges that a reasonable amount of interest was received:

“During the marketing period, we received a reasonable amount of interest (as demonstrated within the attached schedule), however, it was clear that the condition of the building was a major deterrent to interested parties and no offers on a leasehold basis were received. In addition, the premises is also prone to flooding and falls within Flood Zone 3, which was a further preventive to occupiers and would certainly have a negative impact from any developers, should the site be brought to the market on a freehold basis. Finally, it is clear that a facility of this nature which extends to 194,686 sq ft over multiple floors, attracted a limited amount of interest as it was deemed too large.

To summarise, in my view, the building has become very dilapidated and is no longer fit for purpose in its current condition. If this site was to be redeveloped for existing use, we would suggest a smaller unit multi-let scheme which would attract the most interest however, given the site extends to 7 acres, it may not be of interest to a developer due to the scale, along with the issue that the site falls within a flood zone.”

The Forward Planning Team’s response provides a comprehensive assessment of the marketing case, and sets out in full where the inadequacies lie – this can be viewed in full on the planning application file on the Council’s website. A number of queries are raised including:

- Why was the site not marketed as for sale as well as to let?

- What reasons were given by the interested parties for not being interested – these should be stated in full.
- If it was the condition of the building that was a deterrent, were the enquirers contacted following the clearance of the site?
- Were the marketing efforts re-visited and updated following clearance of the site?
- A smaller unit multi-let scheme has been suggested by Savills – why was this not acted upon?

The applicant's case has been assessed by the Council's Forward Planning Team and Economic Development, both of which raise objections. Economic Development identifies that there is a need in the Borough for small industrial units, which could be accommodated on this site. This too is mentioned by Savills but does not appear to have been given consideration.

In summary, the site is a suitable employment site that contributes to the Rossendale Valley Growth Corridor that should be protected. The application has failed to provide a robust case for the total loss of the site as employment land, particularly in relation to the marketing strategy and its results, and the lack of an assessment of the viability of employment development.

The applicant engaged in pre-application discussions with the Council in 2020/2021 in regards to a 100% residential development. The Council advised that such a development would be unlikely to be supported. However, Officers recognised the challenges this site faces due to the age and condition of the buildings (that remained at the time of the pre-application discussion), and the challenging topography and stated:

“As the site is considerable in scale – extending to almost 3 hectares, and being in employment use, coupled with the emerging Local Plan protecting such uses, Officers are unlikely to support the loss of B uses and employment in their entirety. However, depending upon the results of your marketing statement, there may be the potential to create a mixed-use development of residential and employment uses that are compatible with one another, which could result in a more efficient use of the site than that which currently exists. Officers would be willing to explore this further with you.”

However, the applicant did not take up the opportunity to discuss this further with the Council, instead submitting an application for 100% residential development, contrary to the advice. Furthermore, the supporting documentation fails to justify why a mixed-use scheme has been discounted.

To conclude, the proposed residential development contravenes Policy EMP2 and EMP3 of the Local Plan and is therefore unacceptable in principle.

Proposed residential development

Policy HS1 sets out the Borough's housing requirement to deliver 3,191 additional new homes over the plan period to 2036. Policies SD1 and SD2 of the Local Plan direct new housing to the key settlements which includes Haslingden. In general, all new development should be within the urban boundaries, in the interests of sustainable development.

Although the Council can demonstrate a housing land supply of more than 8 years, housing completions have been lower than required by the housing delivery test. As a result, the presumption in favour of sustainable development must be applied in determining applications for residential development (NPPF para 11).

In terms of sustainability, this site is previously developed and is located within Haslingden – one of the key settlements identified in the Local Plan. It is in a sustainable location within walking

distance of services on Grane Road including bus stops and the site is well connected to the adjacent cycleway. Occupants of a residential development on this site will be well served by sustainable transport modes and therefore will not be reliant on the private car.

In its Corporate Plan agreed in 2021, the Council has a strategic objective, it is working to deliver, focused on 'delivering more new homes and a good mix of housing tenures'.

Conclusion on land-use principle

Owing to a failure to satisfy Policies EMP2 and EMP3 of the recently adopted Local Plan, the proposed development is unacceptable in principle.

Heritage and Archaeology

The application is accompanied by a Heritage Statement and Impact Assessment owing to the presence of a non-designated heritage asset on the site. The report has been assessed on the Council's behalf by a Conservation Consultant Lancashire County Council Archaeology (LCC Archaeology).

Although comments from LCC Archaeology are critical of the heritage statement, primarily in relation to a number of errors and inconsistencies, overall they are satisfied that following the 2020 fire, the site does not retain sufficient heritage significance to be preserved at the expense of redevelopment, subject to a planning condition. A record of the site must be compiled prior to any further demolition, clearance, or construction work. This should include (i) the production of a record of the existing buildings, and (ii) the archaeological recording of any buried remains of the power generation and transmission elements of the mills, to include mill engines and engine houses, boilers and boiler houses, chimneys, power shafting and rope-races. Officers are satisfied that this can be secured by the use of a planning condition.

The Council's Conservation Consultant considers Holme Spring Mill to be a non-designated heritage asset of local significance which would be lost by the proposed development. They have advised the Local Planning Authority (LPA) that it is free to consider the loss of significance as part of a balancing exercise. Officers have undertaken such an exercise and considers that on balance, that the loss of significance caused by the demolition of Holme Spring Mill is outweighed by the benefits of redeveloping the site (notwithstanding the in-principle objection to a 100% residential development). Therefore, the proposal would be in accordance with Chapter 16 of the NPPF and Policy ENV2 of the Rossendale Local Plan.

Design and Layout

At the national level, the NPPF (section 12) makes clear that creating high quality buildings and places are fundamental to what the planning and development process should achieve. Paragraph 130 requires permission to be refused for development of poor design that fails to improve the character and quality of an area. At paragraph 127, it requires decisions to ensure that developments achieve the following (inter alia):

- "a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;”.

The National Design Guide acts as an important tool to guide developments to ensure that the final product is good quality. It is a practical document to be used by planning officers in their assessment of the quality of planning applications, and provides detailed guidance on design matters including materials, layout, scale and landscaping.

At the local level, Local Plan Policy ENV1 provides criteria against which new developments are assessed. It emphasises the need for good design, noting that it is a key aspect of sustainable development and in making places better for people.

As this is a full planning application, all matters are for approval and as such the application is accompanied by detailed drawings to show the design of each dwelling and the layout of the scheme as a whole, in addition to a materials palette.

The appearance of the dwellings is largely good and is a welcome move away from a standard house type, with interesting elevations and fenestration, coupled with an attract materials palette comprising heritage red and buff brick, windows with vertical proportions and natural wood doors. Notwithstanding this, the following design changes would be needed in order to comply with local and national design policies:

- The layout incorporates nominal areas of open space / shared amenity space and where they are shown, they are located in narrow linear strips for example on the southern and eastern boundaries. Developments of this scale should provide attractive open spaces in locations that are easy to access, with activities to as to encourage physical activity and promote health, well-being and social inclusion, and well thought out landscaping schemes should be integral components of large residential developments.
- The majority of car parking spaces take the form of long rows of continuous spaces, which dominate the street scene and make for a poor-quality living environment. Parking should normally be in-curtilage but in all cases should be attractive, well-landscaped and integrated into the development so that it does not dominate the street scene, as required by paragraph 86 of the National Design Guide.
- Dwellings are located very close to pavements, leaving little space for soft landscaping in front gardens and along front boundaries.
- The use of car ports on house type D is poor design and should be amended to an alternative house type.
- Concrete roof tiles are proposed, however, in order to be sympathetic to surrounding materials on traditional terraced dwellings, natural slate is required.

Open space

Policy HS6 requires on-site provision of open space in new housing developments over 10 dwellings where there is an identified local deficiency. There is a local open space deficiency in the Haslingden Analysis Area and the settlement of Helmshore (the Haslingden Analysis Area is a wider scope which includes the Helmshore settlement). The Haslingden Analysis Area suffers from a deficiency in Parks & Gardens, Urban Greenspace and Play Areas. The settlement of Helmshore has deficiencies in Parks & Gardens and Play Areas.

Due to the scale of proposed development and the local open space deficiencies in the area, planning policy requires on-site open space to be provided (likely in the form of a Play Area in order to contribute to alleviating this deficit), in line with Policy HS6 and the Open Space SPD. As

the applicant has not indicated the provision of any on-site open space, the application conflicts with adopted policy in this regard.

Conclusion

Overall, the proposed layout incorporates more dwellings than the site can reasonably achieve, at the expense of open space, landscaping and well-designed and integrated car parking. For this reason, the proposed development is considered to be poor design, thereby constituting unsustainable development. It is contrary to Policy ENV1 and HS6 of the Local Plan, the National Design Guide and the NPPF in this regard.

Additional comments from Forward Planning Team

The following additional comments have been received:

“The delivery of more than 100 units on land that is previously developed would obviously be welcomed, particularly given that the presumption in favour of sustainable development is in operation within Rossendale. However, you will have seen my previous comments relating to the submitted summary of the marketing exercise that was carried out and the importance of retaining land in employment use.

Notwithstanding these comments I would also like to refer to the following policies should a housing scheme on balance, be found to be acceptable:

HS3

Based on a scheme delivering 104 units, 30 % of these will need to be affordable, with at least 10 of these being available for affordable home ownership.

The Strategic Housing Manager will advise on tenure, size and the type of these units to meet local needs.

HS5

As the site will deliver more than 5 units, we will expect at least 20% of the housing to comply with the M4(2) standard of the Building Regulations so that housing will be tailored to meet the needs of elderly and disabled residents or be easily adaptable.

HS6 and HS7

You will have received separate advice on complying with HS6 (open space) and the need for play space in the development. In addition, a contribution towards playing pitches will be required.

HS8 requires adequate private outdoor amenity space, preferably in the form of a garden.

HS16 looks to increasing the provision of self-building and custom built housing. For sites with more than 50 dwellings we encourage developers to make at least 10% of the plots available for sale to small builders or individuals wishing to custom build their own homes.

Policy ENV1 looks to securing high quality development. Of particular note is that criteria (i) refers to landscaping and in particular habitat creation, which is a key factor affecting this site given the watercourse.

Criteria (m) refers to a development brief or design code being required as appropriate to support major new development and (n) refers to applications being accompanied by an independent design stage review. Given this is a large windfall site for a significant number of dwellings not identified in the Local Plan I consider these requirements may be appropriate.

*The Council has declared a Climate Change Emergency and a Supplementary Planning Document (SPD) is currently being prepared to provide further guidance. Criteria (q) expects designs to be adaptable to climate change, incorporate energy efficiency features and adopt sustainable construction principles, including Sustainable Drainage Systems – please refer to **ENV9** for more information. The Building Regulations have changed in order to ensure buildings are more energy efficient and can adapt to climate change. A statement will be required setting out and explaining the measures to be included in the design to achieve this.*

*It is important for applicants to show that Biodiversity Net Gain has been demonstrated. Criteria (k) of **ENV1** states that the “Council will seek biodiversity net gain consistent with the current national policy.” This is further stated in **ENV4**, which states enhancements should be quantified. There are opportunities for enhancement of the water habitat within the site and this needs to be demonstrated and quantified clearly.*

***Policy ENV9** refers to Surface Water Run-Off, Flood Risk, Sustainable Drainage and Water Quality and the need for sustainable water management, providing “multi-functional sustainable drainage systems SuDS (as opposed to underground tanked storage systems), which contribute to amenity, biodiversity and water quality, as well as overall climate change mitigation”, unless the Environment Agency or the Lead Local Flood Authority consider it impracticable or unnecessary.*

*Contributions may also be requested by Lancashire County Council in relation to highways and other transport improvements, including cycleways, as well as for education in line with **Policy SD3** on Planning Obligations.”*

Access

“Access” means the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. The application is accompanied by a Transport Statement and associated drawings.

Lancashire County Council as Local Highway Authority (LHA) is responsible for providing and maintaining a safe and reliable highway network. The County Council is also committed to reducing congestion and delay and improving highway links both locally and strategically.

Two vehicular access points are proposed from Grane Road (one is proposed and one is a reconfiguration of the existing access) and a pedestrian-only access from Jubilee Road. There are currently two bus stops within the vicinity of the proposed new access – the one opposite is proposed to be relocated away from the new junction.

The LHA was consulted on the application and requires changes to be made to the internal road layout in order to make it acceptable. Such changes are:

1. Road widths – For a road to be considered for adoption Lancashire County Council request that it is 5.5m wide for 2m wide footways, this can be reduced to no less than 5.2m with 1.8m footways where the road serves a limited number of properties. The internal roads shown for adoption to the west of Swinnel Brook are below the minimum requirement (5.2m) in a number of locations.
2. There are a number of footpaths that are remote from the carriageway, any footway to be offered for adoption needs to connect between two adopted highways and provide a highway function.

3. The area shown for adoption on the submitted 'indicative adopted highway' plan (DWG 19051 (PL) 003 D) is drawn inaccurately in a number of locations as it does not include the required service verges/footways adjacent to all the carriageway for adoption.

The submitted Transport Assessment is acceptable. The LHA has found the proposed access arrangements to be acceptable subject to the applicant entering into a section 278 agreement with the LHA. This would also be used to secure the relocation of one bus stop and the upgrading of two bus stops. A section 278 agreement is a legal agreement between a developer and highway authority to secure necessary works within the highway and is legally enforceable by the LHA.

The application is accompanied by an Interim Travel Plan, which is acceptable to form the basis of a Full Travel Plan, subject to the inclusion of a number of points listed in their consultation response. In addition, a financial contribution of £6,000 is necessary to enable LCC Highways to monitor and support the development, implementation and review of the Plan for up to 5 years.

In terms of sustainability, a section 106 contribution of £25,000 per annum for 5 years is necessary for the upgrading of the 481 bus services (or replacement / equivalent) to provide extended hourly service into the evenings (e.g. 8pm / 9pm) Monday to Saturday and to support the hourly service on a Sunday. These improvements are for the section between Blackburn-Haslingden-Rawtenstall.

Subject to the submission and approval of amended plans, and the applicant entering into a Section 278 Agreement, the use of planning conditions and a Section 106 Agreement, it is likely that the proposed development is capable of being compliant with paragraphs 110, 111 and 112 of the Framework and Policies TR1 and TR2 of the Local Plan.

Flood Risk and Sustainable Drainage

The application is accompanied by a Flood Risk Assessment (FRA) and Surface Water Drainage Strategy and SuDS Statement. The site lies within Flood Zones 2 and 3, with flood risk being fluvial (from rivers) from Swinnel Brook which runs partially culverted through the site. As part of the proposed development, Swinnel Brook will be day-lighted and re-aligned to form a new channel so that it will be in open channel for the full extent of the site.

The relevant statutory consultees (Lead Local Flood Authority, United Utilities and Environment Agency) have inputted into the assessment of this application. Both the Environment Agency and Lead Local Flood Authority object to the proposed development and the reasons are set out in full in their detailed responses which can be viewed on the planning application file on the Council's website. The issues are summarised below:

1. Flood risk – the submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to show that flood risk would not increase elsewhere, nor does it take the impacts of climate change into account.
2. Aquatic environment – the Environment Agency states that as it involves works to the culverted Main River watercourse, Swinnel Brook, in its current form they would not grant a flood risk activity permit due to its impacts on ecology and physical habitats and Water Framework Directive requirements. They recommend that planning permission is refused.

- Inadequate drainage strategy – the Lead Local Flood Authority finds that the application has failed to provide an acceptable drainage strategy to assess the principle of surface water drainage associated with the proposed development. Therefore, they have been unable to assess whether the development meets the requirements of paragraph 169 of the NPPF in principle. They reject claims that a lack of space on the site makes it difficult to provide a multifunctional sustainable drainage system (SuDS), noting that SuDS should be integral to the early design stages.

In order to address points 2 and 3, fundamental design changes may be necessary. For example, the layout of the development may need to change to set back the houses at least 8m from the centre line of the culvert, to design-in SuDS, and to take opportunities available to create a multifunctional and high quality green infrastructure from opening the watercourse for the enjoyment of new residents.

For the ecological and flood risk reasons above, the proposed development contravenes the NPPF, and Policies SS, SD1, ENV1, ENV4, ENV5 and ENV9 of the Rossendale Local Plan.

Contaminated Land

The application is accompanied by a Preliminary Risk Assessment which identifies a number of potential contaminants from former uses on and off site. The Council's Contaminated Land Officer advises:

“Due to the presence of a former gasometer on site, the potential for hydrocarbon/volatile contaminants to be present appears fairly high. If significant levels of these contaminants exist they could be prohibitive to the development of residential properties, certainly in some parts of the site at least. In this particular case I recommend that the LPA requests further information prior to making a Decision. This is likely to comprise sufficient site investigation data to demonstrate to the LPA that the proposed residential use is viable.”

In the absence of such data, Officers cannot conclude that the site is suitable for its proposed use, taking account of land contamination and therefore is contrary to Paragraph 183 of the NPPF and Policy ENV6.

Ecology and Biodiversity

The application is accompanied by a tree constraints report, bat survey and ecological appraisal. They have been assessed by the Council's Tree Officer and Ecologist and Greater Manchester Ecology Unit (GMEU).

In regards to trees, the Tree Officer raises no objection to the development in principle but makes the following observations, noting in particular the lack of a detailed landscaping / planting scheme:

“A tree constraints report in accordance with BS 5837 (2012) has been submitted which finds several trees particularly around site boundaries could be retained as part of the development. However, the submitted illustrative landscape master plan shows that the majority of such trees within the site will be removed. This is understandable as many of these trees have limited root areas and the remediation of the site and removal/demolition of certain features will be problematical. The tree removal is mitigated by extensive illustrative planting throughout the proposed development and consequently I do not object pending a suitably detailed planting plan.”

Trees outside the perimeter in third party ownership should be protected by fencing within the site in accordance with BS 5837 (2012). The submitted planting plan is, as its title suggests, only illustrative and a more detailed submission is required for approval and implementation in full. The palette outlined is satisfactory but needs expansion along with full specification for soil cultivation, plant sizes/numbers/positions, planting and, where necessary, staking technique, grass mix whether seed or turf and mulch etc.”

In regards to ecology and biodiversity, GMEU note that the main issues posed by the development are bats and mitigation for loss of trees and scrub. Other ecological issues include proximity to the West Pennine Moors SSSI, nesting birds, invasive species, proximity to a district wildlife site and proximity to a watercourse. GMEU supports the daylighting of the Swinell Brook.

Overall no objection is raised, and planning conditions are recommended in relation to the matters above. However, in relation to biodiversity net gain Officers note the following:

“There will however be a loss of trees and scrub and the associated bird nesting habitat as well as some grassland. The proposed development site will include the daylighting of the Brook a significant enhancement of this habitat, as well as tree planting and a reduction in the area of site covered in hardstanding. It is therefore feasible to provide adequate mitigation on the site.

There is however currently a lack of landscape detail and should all that is shown on the landscape masterplan consist of low value amenity grassland and ornamental planting, adequate mitigation for loss of moderate value native scrub and trees may not be achieved.

It could be argued that daylighting of the Brook would outweigh these losses but it would not be best practice to weigh the value of a linear wetland feature against the loss of trees and scrub and will not be allowed once net gain becomes mandatory (forecast November 2023).

I therefore recommend that:

- the tree and shrub planting etc on the site mitigates for the loss of trees and scrub (demonstrated through the use of the defra metric v3 for the entire site)*
- a specific landscape proposal is provided for the Swinell Brook including profiles, preferably not vertical walls; naturalisation of the bed including removal of potential obstacles for upstream movement for fish and otter and introduction of aquatics, marginal plants and riparian tree planting and;*
- a bird and bat mitigation strategy*

Whilst GMEU consider that the information above can be provided in a planning condition, Officers expect Defra metric calculations for the site to be provided prior to determination, along with a detailed landscaping scheme in order to demonstrate that this full application is capable of achieving biodiversity net gain, in order to comply with ENV1 and ENV4 of the Local Plan.

Living Conditions for Occupiers and Neighbours

No objection has been raised by Environmental Health subject to conditions. Given the proximity of nearby residential properties and the scale of the proposed development, which includes demolition of a large building, the Council’s Environmental Health Officer has requested a planning condition that restricts hours of construction to 0800-1800 Monday to Friday and 0800-1300 on Saturdays. Access and egress for construction delivery vehicles shall be restricted to the working hours indicated above.

The Air Quality Assessment including its conclusions and recommendations are acceptable to RBC Environmental Health.

Subject to the above, and to informatives, the scheme is considered acceptable in terms of living conditions.

Planning Obligations

The proposed development necessitates the following:

- 30% affordable housing to be provided on-site
- £207,555.75 to LCC Education to fund 9 secondary school places
- £213,928 for open space (to include play areas and playing pitches in addition to maintenance. This figure reduces if play areas are provided on site.
- £125,000 over 5 years to LCC Highways to fund bus services

The East Lancashire NHS Trust currently provides acute, emergency and secondary healthcare across Blackburn with Darwen, Burnley, Hyndburn, Pendle, Ribble Valley and Rossendale. It has requested a financial contribution of £177,477.00. However, along with other neighbouring authorities, at the current time the Council does not consider such requests from the NHS meet the NPPF tests for planning obligations i.e. a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development.

Officers are satisfied that the affordable housing and other financial contributions above do meet these tests and in the event that planning permission was to be granted, it should be subject to a section 106 agreement to secure the above.

Planning Balance

S.38(6) of the Planning and Compensation Act 1991 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. That remains the starting point for decision-making.

The Council can demonstrate a 5 year housing land supply however due to low housing delivery rates, the “tilted balance” remains applicable and the “most important” policies are therefore deemed out of date. Where development plan policies are out of date, the presumption in favour of sustainable development in the NPPF applies. It states that permission should be granted unless “...any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework.” As such, it is necessary to engage the tilted balance and determine whether the adverse impacts outweigh the benefits.

Owing to a shortage of housing delivery, including affordable housing, the provision of 104 dwellings including 30% affordable homes, carries weight in favour of the proposals.

Owing to its location, the site offers its occupants an alternative to the private car for accessing shops, services, schools and jobs.

There are the usual economic benefits associated with on and off-site job creation, including within the construction industry. Moderate weight is attached to such economic benefits.

However, the site is an existing employment site located within the Rossendale Growth Corridor, which is afforded protection via Policies EMP2 and EMP3 of the Local Plan. Whilst local and national policies allow for the redevelopment of such sites to non-employment generating uses where certain criteria are met, in this case, and as set out in this report, the applicant has failed to

provide convincing justification for the total loss of a large existing employment site. The total and permanent loss of this site will harm the Borough's ability to meet employment space needs over the plan period. Objections have been received from the Council's Economic Development Team and Forward Planning. Significant weight is afforded to this harm.

Although the appearance of the dwellings is largely good, and with an acceptable palette of materials, overall the design and layout of the development is poor. The number of dwellings proposed is too great, meaning that on-site open space has been neglected, and car parking is provided largely in rows with a lack of landscaping, leading to a cramped and poor quality living environment.

Technical issues relating to flood risk, sustainable drainage and contamination have led to objections from statutory consultees and ultimately mean that the application as submitted has failed to demonstrate that it is suitable for the proposed residential use.

To summarise, when returning to the presumption in favour, the impacts identified above are adverse and would significantly and demonstrably outweigh the benefits.

For the reason that the application is unacceptable in fundamental land-use terms, and given that the application was submitted in a form contrary to the Council's pre-application advice, the Council was not willing to negotiate or allow further time for the submission and consideration of further information in this instance.

9. RECOMMENDATION

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

10. REASONS FOR REFUSAL

1. The proposed development will result in the total loss of a 2.85 hectare (ha) existing employment site within the Rossendale Valley Growth Corridor. The application has failed to present a clearly justified case to support the loss of an employment site. Consequently, the proposed development contravenes Policies EMP2, EMP3, Strategic Policy SS, and SD1 of the Rossendale Local Plan.
2. The proposed development lies within Flood Zones 2 and 3 and involves the daylighting of a culverted main river. The supporting information accompanying the application fails to demonstrate the following:
 - That the development is acceptable in regards to flood risk and climate change, in particular that flood risk would not increase as a result of the proposed development.
 - That the works to the main river would not cause unacceptable impacts on ecology and physical habitats and that it would deliver biodiversity net gain.
 - That there is an acceptable sustainable drainage strategy.

Therefore, the proposed development contravenes the National Planning Policy Framework, and Policies SS, SD1, ENV1, ENV4, ENV5 and ENV9 of the Rossendale Local Plan.

3. The proposed layout incorporates more dwellings than the site can reasonably achieve, with no on-site open space (for which there is an identified local need), a lack of landscaping, and poorly designed car parking which dominates the street scene. Overall, the proposed development is poor design, thereby constituting unsustainable development.

It is contrary to Policy ENV1 and HS6 of the Local Plan, the National Design Guide and the National Planning Policy Framework.

4. Due to the presence of a former gasometer, the site contains high levels of known contaminants. In the absence of sufficient site investigation, Officers cannot conclude that the site is suitable for its proposed use, taking account of land contamination. Therefore, the proposed development is contrary to Paragraph 183 of the National Planning Policy Framework and Policy ENV6 of the Rossendale Local Plan.