

APPLICATION REPORT - 15/01230/FUL

Case Officer	Paul Whittingham
Ward	Euxton South
Proposal	Part retrospective application for the erection of 6 cottages part of the site has outline planning consent 10/00456/OUTMAJ and reserved matters approval 14/00913/REM for 6 cottages)
Location	Euxton Mill, Dawbers Lane, Euxton
Applicant	J&S Homes (Chorley) Ltd

Recommendation
Approve subject to S106 agreement

Representations

Euxton Parish Council object to the proposed development and have made the following comments:

The Parish Council supported the original application (10/00456/OUTMAJ) for 55 apartments, community facilities and 6 two storey cottages (retirement living). Although this was for development in the greenbelt, which the Council generally opposes, it was felt that this proposal was preferable to the derelict mill that formerly occupied the site and there was no prospect of the land being reclaimed and restored to nature.

For the same reason (except that the mill was then demolished but the site was still derelict and unsightly) but with less conviction, the Council also supported a subsequent application (15/00162/OUTMAJ) for 11 self build detached houses. The Design and Access statement for this latter development explains that there was no interest in the retirement living proposal from specialist developers and that a small residential development was a preferred alternative. The Council admits that it had not realised that the self build houses were intended by the applicant to be constructed in parallel with and not instead of the six cottages (although these are admittedly shown on site plans for the self build proposal).

Subsequent relevant applications (15/00913/REM, 14/01127/OUTMAJ, 15/00971/DIS and 15/01046/DIS relating to the cottages present a rather confusing picture and Council did not appreciate that the applicant was seeking to construct these cottages independently of the rest of the site.

The current, part retrospective application is for the 6 two storey cottages that formed part of the original "retirement village" proposal. Like the rest of the retirement village these cottages were intended "to be designed and built purposely and solely for the use of people over the age of 55" (Green Belt Policy Statement with application 10/00456/OUTMAJ) and the then proposed development contained all the necessary infrastructure for a retirement community.

Clearly the cottages are no longer considered to be part of a retirement community with all the necessary infrastructure and the Council is surprised that later applications were approved as subsidiary matters relating to 10/00456/OUTMAJ when, as is now apparent, they clearly related to a quite different development concept. The current application (15/01230/FUL) now presents this new concept. It is to be regretted that the applicant has commenced construction on the basis of previous approvals relating to a different development

The site is in a very desirable location on a rural river frontage. The old mill has now been demolished but remains untidy and unattractive with building remains, spoil heaps, knotweed etc. It needs proposals that will see the whole site developed in a suitable way. Alternatively, if it is not to be

developed, the Council would be even more pleased to see proposals for its reclamation and restoration as part of the natural landscape. However, the cottages are presented in isolation, have no obvious merit that respects their location and the remainder of the site has no currently approved development proposal. It could therefore emerge that the 6 cottages could form a small, incongruous development surrounded by the remains of the demolished mill. Far from being a better alternative to the former derelict mill this would be "the worst of both worlds"

The Council would prefer to see a coherent proposal for the whole site, whether for reclamation or development, that does justice to this attractive and unusual location. The planning history of this site also prompts the Council to request that any approvals be conditioned to ensure that, as far as is possible, a developer is committed to comprehensive rather than piecemeal implementation.

If, however, the Borough Council is minded to accept this development then it should be conditioned to best respect the site and its surroundings. Further the development should include the improvement of the footpath alongside the river in front of the cottages. This is an important footpath for Euxton and for Chorley and is in a particularly poor condition in this location. The path should be improved to be suitable for disabled access.

Consultees

Consultee	Summary of Comments received
Lancashire County Council Highways	No objection subject to conditions
Environment Agency	No Objection subject to the imposition of conditions

Assessment

History of the site

1. Members may recall that outline planning permission was granted at the site in 2011 (10/00456/OUTMAJ) for the demolition of the redundant mill building and the construction of 55 apartments and communal facilities together with the erection of 6 two storey cottages and associated surface car parking (retirement living). Condition 23 of the outline planning approval stated that an application for approval of the reserved matters must be made to the Council before the expiration of three years from the 21st October 2011.

2. A reserved matters application for this part of the site for the six approved cottages (14/00913/REM) was received in August 2014 and approved in December 2014.

3. The reason for the submission of this application is due to the fact that the cottages which have full consent are subject to the following condition restrictions:

19. The permission hereby granted shall ensure for the benefit of persons over the age of 55 years and over only.

Reason: The permission was granted having regard to the special circumstances advanced in support of this application, in accordance with Policy

4. The applicant originally applied to remove these conditions under Section 73 of the Town and Country planning Act as he wants to sell the cottages on the open market without any age restrictions and wanted to include rear dormer windows. However given the fact that the outline consent is no longer extant Section 73 is not the appropriate mechanism for this change and the applicant was advised that the only way to secure these changes was to apply for a new full planning application.

5. The applicant began building the cottages on the site although he was advised to stop as not all the conditions attached to the outline permission have been discharged. It was also later confirmed that the cottages which are being built are larger than those which originally obtained consent and as such do not have the benefit of planning permission. The overall width of the 6

cottages, from gable end to gable end, was 31.668 m. The new scheme now has an overall width of 32.294 m. The depth of cottages 1&6 of the previously approved application was 8.9 m and for cottages 1-5 it was 8.6 m, whereas now in the new scheme, all 6 cottages have a depth of 9.3 m. As such even if all of the conditions were discharged from the original outline consent the cottages which the applicant has begun to construct do not as a whole have the benefit of planning permission, this is sought to be regularised as part of this application.

6. The remainder of the land subject to the outline approval had an application submitted on it for 11 detached self-build properties and is the majority of the land upon which the demolished mill sat and remains an untidy visual mix of hardstanding's, boundary walls and vegetated waste heaps. The applicants have indicated that they remain committed to resolving the state of the site and wish to bring forward more detailed proposals for the wider site in the near future.

Principle of the Development

7. When the previous outline application was considered at this site Euxton Mill was still in situ, the Mill however has subsequently been demolished and as such this site represents a cleared piece of previously developed land within the Green Belt (notwithstanding the fact that construction of the cottages has commenced).

8. National guidance on Green Belt is contained in Chapter 9 of the Framework which states:

79. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

80. Green Belt serves five purposes:

- *to check the unrestricted sprawl of large built-up areas;*
- *to prevent neighbouring towns merging into one another;*
- *to assist in safeguarding the countryside from encroachment;*
- *to preserve the setting and special character of historic towns; and*
- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

*89. A local planning authority should regard the **construction of new buildings as inappropriate** in Green Belt. **Exceptions** to this are:*

...

*limited infilling or the **partial or complete redevelopment of previously developed sites (brownfield land)**, whether redundant or in continuing use (excluding temporary buildings), **which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.***

9. The application site constitutes previously developed land within the Green Belt which would engage within the exception contained within paragraph 89 of The Framework involving the complete redevelopment of a redundant previously developed site on the proviso that the development does not have a greater impact on the openness of the Green Belt and the purpose of including land within it.
10. Policy BNE5 of the Adopted Local Plan relates to previously developed land within the Green Belt and reflects guidance contained within the Framework as follows:
The reuse, infilling or redevelopment of previously developed sites in the Green Belt, will be permitted providing the following criteria are met:
In the case of re-use
 - a) The proposal does not have a materially greater impact than the existing use on the openness of the Green Belt and the purposes of including land in it;
 - b) The development respects the character of the landscape and has regard to the need to integrate the development with its surroundings, and will not be of significant detriment to features of historical or ecological importance.

In the case of redevelopment:

d) The appearance of the site as a whole is maintained or enhanced and that all proposals, including those for partial redevelopment, are put forward in the context of a comprehensive plan for the site as a whole.

11. The construction of the new buildings will constitute inappropriate development unless one of the exceptions in the Framework is engaged. To benefit from the relevant exception in the case of this site, the applicant must demonstrate that the construction of the new buildings constitute:
 - The partial or complete redevelopment of previously developed land;
 - Which would not have a greater impact on the “openness” of the Green Belt; and
 - Which would not have a greater impact on the purposes of including land in the Green Belt.
12. Whilst the test for sites such as this relates to the impact on openness it is important to note that the Framework contains no specific definition of ‘openness’.
13. It is considered that in respect of the Framework that the previous mill building that occupied the site had an impact on the openness of the Green Belt as there is an impact to openness simply because the building/structures exist. The approval of the 6 cottages as part of the outline planning permission was considered on the basis of the removal of the Mill and the improvement to the junction with the access road and the position was accepted by the Council that the impact on openness as a result of redevelopment was acceptable and consent was granted. The mill building has now been demolished due to safety reasons and the public gaining access to the building but also as a result of planning permission being granted for its redevelopment and some weight is attached to the sequence of works undertaken on the wider site resulting in the demolition of the mill and the submission of this new application.
14. The proposed development does constitute inappropriate development and as such the tests of paragraph 88 of the Framework are engaged. In this case very special circumstances need to be demonstrated which outweigh the harm the development will have to the Green Belt.
15. The agents for the application consider that the proposed development represents a new application for replacement cottages. However it is noted that the current application is not for replacement cottages as the cottages which have consent have not been constructed (and cannot until the outline conditions have been discharged) and as such there is nothing to replace.
16. The agents have also cited that the proposed difference in dimensions between the approved scheme and the proposed scheme is only minor and will not be noticeable, stating that the difference is a 1.9% increase in overall width and 4.3% increase in overall depth. However although the increase in size may only be small when compared to the approved scheme on this site the essential characteristics of Green Belts are their openness and their permanence. The Framework seeks to limit the impact of new development on the openness of the Green Belt and the development needs to be taken as a whole. It is also important to note that any development at this site would become the original dwellinghouse(s) on this site and any future extensions would be assessed against the original dwelling. However the Council can remove permitted development rights for extensions which in this case would be justified due to the harm to the flood zone which in this case includes the rear communal garden area.
17. The agents for the application have confirmed that the increase in size when compared to the approved cottages are principally due to construction purposes based on specific requirements by Building Regulations and to comply with the 19% above 2013 Building Regulations which is a planning requirement, in particular for the need for thicker party walls between each cottage and increased cavities. It is not clear however whether this change results in the cottages as approved being unable to be constructed or whether the cottages as approved could be constructed with thicker party walls whilst reducing the internal floor areas of the individual cottages. The internal walls are standard 300mm cavity walls and as such it appears that the cottages could have been constructed as approved just with thicker internal walls and an associated reduction in the internal floor space but in turn this would have resulted in comparatively smaller rooms.

18. There are improvements proposed as part of the development, the access to the site is on a bend with limited forward visibility and limited pedestrian access, improvements to the existing site access will deliver improvements to both these aspects. There are improvements to the footpath along the river to re-inforce the bank and ensure the footpath is accessible, including new steps down to the path as well as an agreement to secure a slope down to the river bank footpath in addition to the steps to provide for public access for less abled members of the public. There is also a proposed enhancement of the biological heritage site that is alongside the river and within the applicants ownership and this would be secured by condition.

Visual Impact

19. It has been established in case law that openness and visual impact are different concepts in terms of Green Belt Policy. However they can relate to each other and as such the visual impact is a material consideration. In *Heath & Hampsted Society v LB of Camden* [2007] EWHC 977, the difference between openness and visual impact was explained as follows:

21. Paragraph 3.6 is concerned with the size of the replacement dwelling, not with its visual impact. There are good reasons why the relevant test for replacement dwellings in the Green Belt and Metropolitan Open Land is one of size rather than visual impact. The essential characteristic of Green Belts and Metropolitan Open Land is their openness ... The extent to which that openness is, or is not, visible from public vantage points and the extent to which a new building in the Green Belt would be visually intrusive are a separate issue...

The fact that a materially larger (in terms in footprint, floor space or building volume) replacement dwelling is more concealed from public view than a smaller but more prominent existing dwelling does not mean that the replacement dwelling is appropriate development in the Green Belt or Metropolitan Open Land.

20. When interpreting paragraph 89 of the Framework the Judge in *Timmins v Gedling BC and Westerleigh Group Limited* [2014] analysed the relationship between openness and visual impact. He held inter alia:

74. Any construction harms openness quite irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or qualities. A beautiful building is still an affront to openness, simply because it exists. The same applies to a building this is camouflaged or rendered unobtrusive by felicitous landscaping.

21. In this case the Judge concluded that:

78. In short it seems to me that there are three points which arise from the above analysis. First, there is a clear conceptual distinction between openness and visual impact. Secondly, it is wrong in principle to arrive at a specific conclusion as to openness by reference to visual impact. Thirdly, when considering however whether a development in the Green Belt which adversely impacts upon openness can be justified by very special circumstances it is not wrong to take account of the visual impact of a development as one, inter alia, of the considerations that form part of the overall weighing exercise.

22. As the development falls to be considered inappropriate development the landscape/ visual impact of the proposed development is a key material consideration in terms of the overall balance as to whether there is harm.
23. The development site generally benefits from a level of containment created by the local topography and existing trees and woodland areas around the boundaries of the site. A large part of the site is effectively 'screened' when viewed externally from Dawbers Lane with the main views of the site from the footpath which runs along the River Yarrow at a lower land level.
24. From a visual impact perspective this part of the former Euxton Mill site was historically an area of hardstanding used for parking and in relation to the operation of the mill and was considered previously to be suitable to in visual terms to have 6 cottages built on it albeit with very special circumstances in terms of the building of a retirement complex. The proposals will result in new

built development which will be seen from the river footpath and the footpath through the site. The dormers proposed have now been removed from the application as they would have resulted in a 3 storey rear elevation that would have been visually prominent when viewed from the river path and public footpath 9 adjacent to the site.

25. The agents consider that the redevelopment of this site would remove the 'eyesore' that is the remnants of the former mill which occupied this site. Although the area of land is occupied by an urban feature in respect of hardstanding it is not considered that from a visual perspective this part of the site has a significant adverse impact on the visual amenities of the area to a degree which would see a significant benefit by its replacement with the cottages as proposed. However this part of the site has full consent for the erection of 6 cottages and from a visual perspective the impact of the proposed development compared to the approved development will be marginal.

Loss of Employment Land

26. As this application proposes redevelopment of employment premises for redevelopment other than B use class employment uses it should be assessed under the criteria in Policy 10 of the Core Strategy and the provisions in the SPD on Controlling the Re-Use of Employment Premises. However it is noted that this part of the former Mill site was granted reserved matters consent that has full consent for 6 cottages, as such it is considered that this part of the site for employment purposes has already been 'lost' in respect of the requirements of Policy 10 of the Core Strategy.

Sustainable Development

27. The golden thread running through the Framework is sustainable development. There is a bus stop close to the site which, based on the information on Lancashire County Council's web-site, is used by the following services:
- 347 which connects Southport to Chorley only on a very limited service Monday to Saturday
28. The application site is located 0.5 mile from the edge of the settlement. Whilst there is no footpath on that side of the road, there is one all the way on the other side of the road. The nearest bus stop is within 50 metres of the application site. The nearest train station is 0.9 mile away and the nearest shops in the district center are 1.0 mile away with the nearest school a further 200 meters onwards.
29. A recent travel assessment done for a site 2 miles to the west of the application site is actually relevant to this proposal, in that the data underpinning that report is applicable to the consideration of all sites. Essentially that data states that evidence from good travel planning practice suggests people are willing to walk up to 2 km to facilities. That takes the assessment to (and slightly beyond the school in Euxton).
30. The National Travel Survey suggests that cycling to work is undertaken for distances of up to 5km from home, and this takes in most of Chorley town itself as well as Euxton and Buckshaw.
31. In this regard the agents for the application have confirmed that their client would be happy to incorporate a safety crossing point to allow pedestrians and cyclists to cross Dawbers Lane safely. The applicant is also happy to provide the 'sustainable' measure of one bicycle per dwelling to encourage cyclists to cycle to the shops. These measures are considered favourably and could be secured via a legal agreement/ condition in the event of a positive resolution.

Design and Layout

32. The proposed cottages reflect the approved scheme for this part of the site in terms of design and layout. The differences proposed are that the cottages are wider, have a greater depth, include a rear dormer window and do not include the rear gable feature on the 2 end cottages (although it is noted that the approved elevations and floor plans are missing from the outline planning file). The proposed cottages also have a lower eaves height from 6.2m to 5m.
33. Given that the design and appearance of the cottages reflects the previously approved scheme on this part of the site this is considered to be an appropriate design solution for the site.

34. The proposed development includes a rear communal garden area next to the river boundary. This reflects the approved scheme for the site which was for over 55s retirement accommodation with communal areas designed to create a community feel however as the proposals are now for private family houses it is considered to be more appropriate to provide private garden space for each dwelling. This however can be addressed by condition.
35. There are no immediate neighbours to this part of the former mill site and as such it is not considered that the proposed development will adversely impact on the neighbours amenities.

Ecological Implications

36. There is a Biological Heritage Site (BHS) designation on the majority of the applicaiton site, which is in relation to the presence of both semi-natural woodland, which is ancient in character, and swamp and fen. However the BHS site comprises former car park, and therefore loss of this area will not result in the loss of biodiversity value from the BHS.
37. Members will note that there is an outline application on the remainder of the Mill site for 11 detached dwellings. The ecological information submitted in support of this application is identical to the information submitted as part of the other application. Although the Ecologist has not commented on this application they have commented on the outline application and their comments are considered to be applicable to this application also.
38. The supporting information does not provide any evidence to suggest that there is the presence of a major roost of bats in the area although there is some limited potential for bats to be present.
39. There are habitats within the application site that are suitable for nesting birds. It is therefore important to ensure that appropriate mitigation measures are put in place to avoid any adverse impacts on birds or their nests.
40. There is Japanese Knotweed and Himalayan Balsam on the site.
41. The use of lighting can have an adverse impact upon biodiversity and wildlife, and it can deter species of bats from foraging and flying within this area. The accompanying ecology report recommends that any lighting during construction and operation should be directional and screened where possible to avoid artificial illumination of wildlife habitats.
42. The Ecologist has commented that although the ecology surveys submitted as part of the application were carried out in 2010 and are in places out-of-date the overall conclusions of the report remain relevant. The application site itself is not of substantive nature conservation value and the Ecologist considers that there are no reasons to object to the development on nature conservation grounds providing that certain measures and precautions are adopted and implemented to protect local and site-based ecological assets.
43. The following measures are recommended all of which will be addressed by condition:
- That surveys for badgers and invasive plant species are updated prior to any major construction works commencing. These surveys should be required by condition.
 - That a method statement be prepared giving details of how the spread of invasive plants is to be controlled as part of the development. Once agreed this method statement must be implemented in full. The spread of certain invasive plants is controlled under the terms of the Wildlife and Countryside Act 1981 (as amended).
 - That a scheme for the protection and enhancement of the adjacent Yarrow Valley Biological Heritage Site (BHS) be prepared and, once approved, implemented in full. There should be a 'buffer zone' established between built development and the river course to prevent any possible harm to the BHS.
 - That Best Practice be followed throughout any construction period to avoid any possibility of pollution of the river. Pollution Prevention Guidelines prepared by the Environment Agency and CIRIA Best Practice Guidance are relevant.
 - That a lighting scheme sympathetic to nocturnal wildlife be designed and once approved implemented in full. In particular direct lighting of the nearby river corridor should be avoided.

- Although bat surveys of the buildings have proven negative bats are mobile and cryptic in their habits and can turn up in unexpected places. If bats are found at any time during approved works then works must cease immediately and advice sought from a suitably qualified person about how best to proceed.
44. Following the Supreme Court ruling (*Morge vs Hampshire County Council* – Supreme Court ruling Jan 2011) the Local Authority now have a responsibility to consult Natural England on proposals which may affect protected species and ask the following questions:
 - Is the proposal likely to result in a breach of the Habitats Regulations?
 - If so, is Natural England likely to grant a licence?
 45. Natural England has not been consulted on the proposals as it is not considered that the proposals will result in a breach of the Habitats Regulations.
 46. Following the high court decision (*R (on the application of Simon Woolley) v Cheshire East Borough Council*, June 2009) the Local Planning Authority have a legal duty to determine whether the three 'derogation tests' of the Habitats Directive implemented by the Conservation (Natural Habitats &c.) Regulations 1994 have been met when determining whether to grant planning permission for a development which could harm a European Protected Species. The three tests include:
 - (a) the activity must be for imperative reasons of overriding public interest or for public health and safety;
 - (b) there must be no satisfactory alternative and
 - (c) favourable conservation status of the species must be maintained.
 47. This requirement does not negate the need for a Licence from Natural England in respect of Protected Species and the Local Planning Authority are required to engage with the Directive.
 48. The Framework (para 118) confirms that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
 49. As such the Framework adopts a tiered/ cascade approach in that the first test is whether there is an alternative to developing the site. The development has possible beneficial consequences to the environment with the potential to deliver ecological improvements directly related to the erection of housing on this site. The use of the site has diminished over time particularly following the demolition of the mill building with limited benefits to biodiversity which could be enhanced as part of any development which is particularly relevant to the BHS on this site. As such it is considered that the first two derogation tests and the alternative site test within the Framework are met in that there is no satisfactory alternative.
 50. The next test is whether a favourable conservation status of protected species will be maintained and whether the biodiversity impacts are adequately mitigated. As set out above it is considered that a favourable status of protected species will be maintained. To compensate for the habitat losses and to ensure that the proposed scheme does not adversely impact on protected species or the BHS suitable conditions are proposed. As such it is considered that the Local Authority has engaged with the three tests of the Habitats Directive and the guidance contained within the Framework and from an ecological perspective the proposals are acceptable.

Open Space

51. The Open Space and Playing Pitch SPD was adopted for development control purposes at the Council meeting on 17th September 2013. Therefore, the following requirements are based upon the standards within Local Plan Policies HS4A and HS4B and the approach in the SPD.

Amenity Greenspace

52. Local Plan Policy HS4A sets a standard of 0.73 hectares per 1,000 population. There is currently a deficit of provision in the Euxton South ward in relation to this standard; a contribution towards

new provision in the ward would therefore be required from this development, however there are no identified schemes for new provision in the ward.

Provision for children/young people

53. Local Plan Policy HS4A sets a standard of 0.08 hectares per 1,000 population. There is currently a surplus of provision in the Euxton South ward in relation to this standard; however the site is not within the accessibility catchment of an area of provision for children/young people. A contribution towards new provision in the accessibility catchment would therefore be required from this development however there are no identified schemes for new provision in the ward.

Parks and Gardens

54. There is no requirement to provide a new park or garden on-site within this development. There are no parks/gardens within the accessibility catchment (1,000m) of this site identified as being low quality and/or low value in the Open Space Study; therefore a contribution towards improving existing provision is not required.

Natural and Semi-Natural Greenspace

55. There is no requirement to provide new natural/semi natural greenspace on-site within this development. There are no areas of natural/semi-natural greenspace within the accessibility catchment (800m) of this site identified as being low quality and/or low value in the Open Space Study; therefore a contribution towards improving existing provision is not required.

Allotments

56. There is no requirement to provide allotment provision on site within this development.

Playing Pitches

57. A Playing Pitch Strategy was published in June 2012 which identifies a Borough wide deficit of playing pitches but states that the majority of this deficit can be met by improving existing pitches. A financial contribution towards the improvement of existing playing pitches is therefore required from this development. The Playing Pitch Strategy includes an Action Plan which identifies sites that need improvements. The amount required is £1,599 per dwelling.

58. The total financial contribution required from this development is as follows:

Amenity greenspace	= £0
Equipped play area	= £0
Parks/Gardens	= £0
Natural/semi-natural	= £0
Allotments	= £0
Playing Pitches	= £1,599
Total	= £9,594

Affordable Housing

59. Policy 7 of the Core Strategy relates to affordable housing and this site would require 35% on-site affordable housing as the site is not located within a defined settlement boundary and does not fall to be considered a rural exception site. The Central Lancashire Affordable Housing SPD includes guidance on the range of approaches, standards and mechanisms required to deliver a range of affordable housing to meet local needs.

60. It is noted that the previous outline consent at this site did not include an element of affordable housing as it was considered that the site was not in the most suitable location and the buildings did not lend themselves to provide affordable housing within the scheme itself. It was considered unlikely that a Registered Social Landlord (RSL) would engage on the scheme due to the restriction to 55 years and over. As such on-site affordable housing was not requested or an offsite commuted sum secured.

61. It is still not considered that the site location would be appropriate for affordable housing due to its distance from services. The SPD does confirm that the Council's preferred way forward is on-site

provision however it does allow for off-site provision or financial contributions where robustly justified. In this case an off-site contribution is considered to be more appropriate.

62. As such in this case a financial contribution, to be secured via a Section 106 Agreement, is considered to be the only appropriate way of securing affordable housing. The commuted sum in lieu of 35% affordable provision on site has been calculated using the calculation contained within the Affordable Housing SPD.
63. In accordance with the calculation contained within the SPD the commuted sum associated with this development is $£375,000 \times 0.33\% = £123,750 \times 3.23 =$ **£399,712.50**

Viability

64. The development and the resultant development plan requirements for POS and off site affordable housing contributions are considered to impact significantly on the viability of the development with a profit as % of sales at 12.86 and as % of costs of 14.75 even excluding the off site affordable housing commuted sum detailed above.
65. The development does not meet the development plan requirements for POS and off site affordable housing contribution however the agent for the application has agreed to the inclusion of an overage clause within the legal agreement that would require a further viability assessment upon completion of the development. This would enable the full detailed costs and values of the completed properties to be considered and should the anticipated sales figures or costs be different then there may be additional value from the scheme that could be clawed back to support the development plan requirements of such developments.

Transport and Highways

66. The proposed development involves an access off Dawbers Lane which was one of the historic access points to the mill. The Highway Engineer at LCC has reviewed the proposals and confirmed that the development is acceptable from a highways perspective subject to conditions in respect of visibility splays and wheel wash facilities.
67. The proposed development involves the erection of 6 three bedroom dwellings with provision included for 12 parking spaces in accordance with Policy ST4 of the Adopted Local Plan.
68. One of the benefits of the wider development of this former mill site put forward by the applicant is the removal of an accident black spot. The agent has confirmed that the 'blind' bend which wrapped round the former mill that no longer exists, in addition proposals to include the implementation of a new pavement are acknowledged as a benefit as part of the development of this site along with the sustainable transport suggestion set out above which are material considerations in respect of this proposal.

Sustainable Resources

69. Policy 27 of the Core Strategy currently requires dwellinghouses to be built to meet Code for Sustainable Homes Level 6. However, the 2015 Deregulation Bill received Royal Assent on Thursday 26th March 2015 which effectively removes Code for Sustainable Homes. The Bill does include transitional provisions which include:

"For the specific issue of energy performance, local planning authorities will continue to be able to set and apply policies in their Local Plans which require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the [Planning and Energy Act 2008](#) in the Deregulation Bill 2015. This is expected to happen alongside the introduction of zero carbon homes policy in late 2016. The government has stated that, from then, the energy performance requirements in Building Regulations will be set at a level equivalent to the (outgoing) Code for Sustainable Homes Level 4. Until the amendment is commenced, we would expect local planning authorities to take this statement of the government's intention into account in applying existing policies and not set conditions with requirements above a Code Level 4 equivalent."

“Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.”

70. As such there will be a requirement for the dwellings to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations in accordance with the above provisions.

Community Infrastructure Levy

71. The Chorley CIL Infrastructure Charging Schedule provides a specific amount for development. The CIL Charging Schedule was adopted on 16 July 2013 and charging commenced on 1 September 2013. The proposed development will be a chargeable development and the charge is subject to indexation in accordance with the Council's Charging Schedule.

Permitted Development Rights

72. The supporting statement submitted with the application queries the blanket removal of PD rights in respect of the approved cottages given that the reason for the removal was as follows:
“ To ensure control over any future development, and in particular between the rear of the development and the River Douglas. The River Yarrow is designated as a ‘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 the prior written consent of the Environment Agency, and to comply with PPS25: Development and Flood Risk.”
73. The Framework sets out 6 tests which are applicable to all planning conditions (necessary; relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects) and the supporting statement queries whether this condition actually meets these tests given the reason for the condition.
74. The condition was attached following advice received from the Environment Agency at the time of the outline application as the proposed cottages were just outside the Environment Agencies 8m easement from the top of the bank of the river. Any extensions or enclosures at the rear of the cottages would be within the Environment Agencies easement hence their request to remove PD rights in respect of classes A, D and E (although the decision notice removes PD for classes A-E). As this is a main river no works can take place within 8m from the bank top of the watercourse without prior written consent of the Environment Agency which could cause a conflict if a development is undertaken as permitted development.
75. The submitted plans detail that a distance of between 8 and 11m is maintained between the rear of the cottages and the edge of the site (which appears to be the edge of the footpath). Given the distance maintained potentially a rear extension to the dwellings or the erection of an outbuilding could be within the 8m easement with the river and as such removal of PD in respect of class A (extensions and alterations) and class E (outbuildings) would accord with the Framework tests in the event of a positive recommendation.
76. The removal of class A of Part 2 in relation to the ability to erect fences is also a matter that the Environment Agency consider should be removed as the only acceptable solution for fencing the individual gardens is a removable fence, that is required for both flooding and access purposes.

Drainage

77. The outline planning approval at this site included a condition in respect of drainage which the applicants have sought to discharge. United Utilities are satisfied with the drainage solutions proposed for the cottage part of the site with foul draining to the public sewer and surface water to the adjacent watercourse. However the plans do not detail how surface water runoff will be controlled into the watercourse. Lancashire County Council have been consulted (as part of the discharge application) as the Lead Local Flood Authority who have confirmed that Land Drainage Consent is required from LCC for the proposed drainage. The agent for the application has been advised of this requirement.

78. It is noted that the Environment Agency had objected to the proposals on the grounds that the cottages are proposed on the top of the bank. The Agency have commented that the previous application was made in 2010 and a plan was submitted showing that the buildings would be further than 8 metres from the top of the bank of the River Yarrow. However, the cross-section drawing (Ref: BR K465/07, dated 11 August 2015) submitted with this part-retrospective application show that the top of bank had been incorrectly identified.
79. The Environment Agencies comments are noted however it is important to note that from a planning perspective there is consent on this site for 6 cottages which potentially could be constructed if the current development partly constructed was removed from site. As such in this situation there is a potential 'fall-back' (notwithstanding how unlikely this fall back would be implemented).
80. The Environment Agency have visited the site and confirmed that they are satisfied, in this case, that the structures are not at flood risk and will not increase flood risk elsewhere. The Environment Agency have agreed works to the bank between the cottages and the river bank and that work has been undertaken with the agreement of the EA. Final revised comments from the EA will be reported on the addendum.
81. It appears that the applicants may have required an environmental permit (the Flood Defence Consent regime has moved into the Environmental Permitting Regulations as of 6 April 2016) for work affecting a main river and it is a criminal offence to carry out these activities without a permit if one was required. The grant of planning approval does not guarantee that any necessary permissions or consents that are required under separate legislation will be forthcoming and the applicants have been advised of this issue.

Overall Conclusion

82. The applicant has put forward the following summary of the benefits of the scheme.

Social	Environmental	Economic
Provision of new dwellings	Removal of part of a brownfield site	Local Employment during construction
Located close to existing services	Improved intervisibility and visibility for the access	Contribution to infrastructure projects
Support the use of cycleways and bus routes	Improved footpaths to dawbers Lane	New Homes Bonus
Improvements to footpath access from Dawbers Lane to riverside footpath	Improvements to riverside footpath and banks	Increased population to support local businesses
	Woodland management plan	
	Landscaping plan within the site	

83. The proposed development is on a previously developed site within the Green Belt where planning permission was granted on part of the site for a retirement village including the erection of 6 cottages. In implementing the reserved matters consent for the 6 cottages the cottages were built larger than the approval and the mill was demolished in order to progress the overall development of the site and to prevent access to the building on safety grounds. Some weight is given to the sequence of events that has resulted in the submission of this application and whilst a fresh assessment of harm in terms of openness from a car park to the 6 cottages would identify a greater level of harm it is not considered that such a strict assessment is appropriate having regard to the other material considerations and very special circumstances.
84. Whilst the proposed development does strictly represent inappropriate development in that it involves the development of previously development land which will have a greater impact on the

openness of the Green Belt than the existing site, the presence of the mill, demolished to enable the development of the 6 cottages is a material consideration. The proposed development does propose benefits which are material to the consideration of the proposals (including measures to enable the future occupants to have transport choices, improvement to the Dawbers Lane frontage to improve sightlines, improvement to public access to the riverside path and improvements to the BHS via a woodland management plan it is considered that these material considerations that are positive benefits to the wider community in the overall planning balance outweigh the harm the development will have on the Green Belt.

Planning Policies

In accordance with s.38 (6) Planning and Compulsory Purchase Act (2004), the application is to be determined in accordance with the development plan (the Central Lancashire Core Strategy, the Adopted Chorley Local Plan 2012-2026 and adopted Supplementary Planning Guidance), unless material considerations indicate otherwise. Consideration of the proposal has had regard to guidance contained within the National Planning Policy Framework (the Framework) and the development plan. The specific policies/ guidance considerations are contained within the body of the report.

Planning History

Reference	Description	Decision	Date
74/00241/FUL	Change of use to storage and distribution of ice cream and garaging of vehicles.	Approved	1975
75/00489/FUL	Replacement building for light industrial use.	Approved	1975
86/00401/FUL	Two storey extension of 1710 square metres to south side of mill and resiting of portacabins	Approved	1986
98/00239/FUL	Side extension and structural repairs	Approved	1998
10/00456/OUTMAJ	Demolition of the redundant mill building and construction of 55 apartments and communal facilities together with the erection of 6 two storey cottages and associated surface car parking (retirement living).	Approved	2011
12/00856/OUT	Proposed Construction of 11 Detached Dwellings	Withdrawn	
14/00913/REM	Reserved matters application to address the landscaping associated with the approved cottages (pursuant to outline permission ref: 10/00456/OUTMAJ).	Approved	December 2014
14/01088/OUTMAJ	Outline application for the erection of 55 apartments and communal facilities together with the erection of 6 two storey cottages and associated surface car parking (retirement living) all matters reserved apart from landscaping	Withdrawn	
14/01127/OUTMAJ	Outline application for the erection of 55 apartments and communal facilities and	Withdrawn	

	associated surface car parking (retirement living) all matters reserved save for appearance, layout and scale.		
15/00971/DIS	Application to discharge conditions 1 (external facing materials), 2 (hard ground-surfacing materials), 3 (levels), 5 (surface water drainage), 6 (foul water drainage/disposal), 7 (landscaping), 10 (invasive species), 11 (habitat enhancement and management plan), 14 (swallow nesting opportunities), 15 (lighting scheme), 16 (bin storage/recycling area), 17 (desktop study), 20 (Archaeology) and 21 (wheel washing facilities) attached to outline planning approval 10/00456/OUTMAJ	Pending consideration	
15/01046/DIS	Application to discharge condition 4 (tree survey) attached to reserved matters consent 14/00913/REM	Condition discharged	October 2015
15/00162/OUTMAJ	Outline application for a self-build residential development comprising 11 detached dwellings all matters reserved save for access and layout	Pending consideration	

Conditions

To Follow