

## **APPLICATION REPORT – 15/00162/OUTMAJ**

**Validation Date: 7 May 2015**

**Ward: Euxton South**

**Type of Application: Major Outline Planning**

**Proposal: Outline application for a self-build residential development comprising 8 detached dwellings all matters reserved save for access and layout**

**Location: Euxton Mill Dawbers Lane Euxton Chorley PR7 6EB**

**Case Officer: Mr Iain Crossland**

**Applicant: Xpect Developments**

**Agent: Neil Pike Architecture Limited**

**Consultation expiry: 18 December 2015**

**Decision due by: 31 August 2015**

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### **UPDATE REPORT**

1. The recommendation remains to approve the planning application.
2. Members will recall that this application was considered by Development Control Committee on 10 October 2017 and 07 November 2017. The Committee resolved to grant planning permission subject to conditions and a s106 agreement to secure a contribution towards the off-site provision of affordable housing.
3. Since this time, the applicant has further investigated the full costs of delivering the scheme, and current sales values. As a result, they have identified some critical viability issues affecting the deliverability of the development. A viability assessment has been submitted by the applicant demonstrating that the full contribution required by policy is not possible as the profit margin to the developer would be limited to the point where there would be little incentive to progress the development. This has been considered by the Council's viability consultant, which led to some of the assumptions being challenged by the Council. The applicant provided further information and has offered to pay a commuted sum of £144,652.63.
4. Following further discussions with the Council's viability consultant it was considered that the amount proposed would be reasonable under the circumstances and should be accepted. It is therefore recommended that the viability case is accepted and that a commuted sum of £144,652.63 is appropriate to make the development acceptable under the circumstances, when balanced against the benefits of proposed development on the site in question. It is recommended that this reduced sum is accepted subject to an overage agreement to be included within the s106 agreement.

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### **UPDATE REPORT**

5. The recommendation remains to approve outline planning permission.

6. **The application was deferred at the planning committee of 10 October 2017 to allow time for Members to visit the site and in order to seek additional comments from Lancashire County Council Highways. The site visit has taken place, the additional comments from Highways will be updated on the Addendum. The original committee report from 10 October follows on below.**
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## **ORIGINAL REPORT**

### **RECOMMENDATION**

7. It is recommended that the application be approved subject to conditions.

### **SITE DESCRIPTION AND BACKGROUND**

8. The application site is located in the Green Belt at Euxton. The site was previously occupied by a large mill building, which was demolished owing to safety concerns in 2011. The boundary wall remains adjacent to the highway and there are other small structures and hardstandings across the site. The site is located between the River Yarrow to the south and Dawbers Lane to the north. The site slopes from the highway down towards the river. The area comprises sporadic ribbon development of mostly residential properties and surrounding open agricultural land of lowland character.
9. Members may recall that outline planning permission was granted at the site in 2011 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. Although a reserved matters application for the landscaping of the six approved cottages was received in August 2014 and approved in December 2014 (ref: 14/00913/REM) a reserved matters application for the whole site was not received and as such the majority of the previous outline consent on this site is no longer extant.
10. The current proposals involve the erection of 8 self-build detached dwellinghouses on the site. The application is outline in nature with all matters reserved save for access and layout, although it is envisaged that large family (4/5/6 bed) dwellings will be built. The proposed development relates to the majority of the land upon which the demolished mill was sited. Since the demolition of the mill the site remains an untidy visual mix of hardstandings, boundary walls and vegetated waste heaps.
11. Part of the site has been subject to a separate application and the erection of 6 cottages with rear dormer windows (ref. 15/01230/FUL). This was approved by the DC committee in Jan 2017, subject to a section 106 agreement. The 6 cottages are nearing completion and occupy a corner of site adjacent to the river.

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

12. This application seeks outline planning consent for a self-build residential development comprising 8 detached dwellings all matters reserved save for access and layout. This has reduced from 14 dwelling as proposed originally, which was revised down to 11 and more recently 8.
13. Two existing vehicular access points would be used and enhanced. Pedestrian access would be created from Dawbers Lane to the public right of way adjacent to the River Yarrow, which would also be improved.

### **REPRESENTATIONS**

14. **Northern Trust** have raised the following objections to the proposals:

- The development constitutes development across a much wider area than previously on site;
  - 14 large detached private dwellings will represent a substantially different form of development on site to the previous mill and the recent planning consent both of which incorporated a central block as opposed to more widespread development;
  - Represents a more suburban form of development and development across a greater proportion of the site will accentuate this effect resulting in a greater impact on the openness of the Green Belt;
  - The amount and scale of development should be reduced for this sensitive Green Belt location;
  - This section of Dawbers Lane and the access into/out of the site is unsatisfactory and does not provide safe or convenient access to or from the highway;
  - Although improvements to the junction are proposed the junction arrangements remain inadequate to ensure safe and convenient access to/from the site;
  - The visibility splays are considered to be unsatisfactory in particular the eastern access to the site. The visibility to the east is particularly problematic given the proximity to a sharp bend and the trees and vegetation along the boundary restricting views along the highway in this direction.
15. Two representations have been received objecting to the proposed development and raising the following issues:
- The siting of dwellings immediately behind existing properties;
  - Extending built development beyond the original footprint of the mill;
  - Blocking pedestrian access from Dawbers Lane to the river;
  - The height and thickness of the proposed retaining wall;
  - 2 road entrances onto Dawbers Lane- no true amendments to the road layout are proposed;
  - Conservation of the two areas either side of the site which continue along the river should not be included within the garden areas for the properties;
  - Impact on the mature trees on the riverbank;
  - Consideration of the electricity supply to the houses on Dawbers Lane and Old Dawbers Lane;
  - Building too close to the river;
  - Accidents along the curve of Dawbers Lane will continue and cars could go through the proposed retaining wall;
  - Dawbers Lane is dangerous and the proposals do nothing to improve this;
  - 14 properties are too many. The likely volume of vehicles for so many properties will probably be many. Parking on the lane is already tight and will only increase in the future, not just from residents but also dog walkers using the woods and the bank. If parking spaces are at a premium on the new development and residents start parking on Old Dawbers Lane this would be a problem.

## CONSULTATIONS

16. **Euxton Parish Council:** supports this application, as it did the earlier one for retirement homes, as it would wish to see the untidy and unkempt Euxton Mill site redeveloped in a more attractive way.
17. However, Parish Council noted that the red line defining the site on the site location plan omits the footpath on the banks of the River Yarrow where it passes the site. The earlier application included the river bank and the path.
18. This riverside path alongside the Euxton Mill site is in poor condition narrow, uneven and in danger of slipping into the river (A short section was repaired several years ago after sliding into the river). It is not easy for able bodied users and impossible for the infirm. However it is a particularly attractive and important path for the Euxton community and would be an even greater asset to the community if it was easy for all to use, including the infirm. It would of course also be an asset for the new community proposed in this application.

19. The site location plan also contains a blue line which it is assumed represents land within the applicant's ownership. This line covers the entire length of the riverside path from the houses at Pincock to the weir and island formed by the mill race downstream of the proposed development. This, improved to a suitable standard, would make an exceptionally attractive path for the entire local and borough community.
20. The Parish Council notes that the recently published LCC ROWIP [Rights of Way Improvement Plan] contains (Section 2.1.2) the following exhortation "New developments should be encouraged to include provision for updating the PROW network in condition and alignment". The Borough Council should insist that the application includes improvement of the riverside path over at least the length of the proposed housing development and preferable over the length within the developer's control.
21. **Euxton Parish Council 26 June 2017 further comments on revised plans:** Euxton Parish Council considered the revised plan for this site at its June 2017 meeting. They welcomed this new proposal as, together with the nearly constructed cottages, it will provide some form of coherent development for this site which has been an eyesore for many years. The Council regrets that it has taken so long for this proposal to emerge since the original application for self-build housing here was submitted over two years ago and for the retirement village prior to that. It is noted that, if this matter had been brought to a successful conclusion more quickly, as the Parish Council urged, the developer for the nearby and later proposal for a housing estate at Gleadhill would not have been able to claim that the uniqueness of their proposal for self-build housing was a "special reason" for them to develop in the open Green Belt.
22. Although the Parish Council welcomes the revised proposal it has two comments concerning the proposed footpath network in and around the site. The plan shows a footpath through the site that connects from Dawbers Lane to the public footpath alongside the bank of the River Yarrow. The Parish Council assumes that this route will be available for all users and not just for residents of the site. If this is the case the Council welcomes this path which would give access to the river bank for the less able and, for example, those in wheelchairs. It is noted that the path is ramped and must inevitably have a considerable gradient. There should therefore be barriers provided where it joins the riverside path to prevent users from falling into the river bank. If the path is not available for the general public the Parish Council would wish to be advised and permitted to comment.
23. The path along the river is marked on the plans as "to be upgraded as agreed with LA". This is an attractive footpath along the River Yarrow and offers an opportunity for all to enjoy. It should be upgraded such that it can be used by the aged and infirm and over as long a length as the applicant can be persuaded to provide.
24. **Lancashire County Council Archaeology Service:** No objection subject to condition
25. **Environment Agency:** Originally objected to the application on the basis that an 8 metre strip is preserved for access purposes. Following the receipt of amended plans the objection was removed subject to conditions.
26. **Greater Manchester Ecology Unit:** The ecology surveys submitted as part of the application were carried out in 2010 and are in places out-of-date. However the overall conclusions of the report remain relevant – these are that the application site itself is not of substantive nature conservation value and therefore 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.
27. **Lancashire Highway Services:** No objection in principle subject to conditions and specific requirements which are set out within the body of the report.
28. **Lead Local Flood Authority:** Have commented on what is necessary at outline stage from a flood risk and drainage perspective.

29. **Waste & Contaminated Land:** No objection subject to suitable condition.
30. **Lancashire Constabulary Architectural Liaison:** security recommendations for the proposed dwellings
31. **Chorley and District Natural History Society:** Do not object but have commented on the path adjacent to the river and the location of the building line close to the river bank.
32. **United Utilities:** No objection subject to suitable conditions
33. **Lancashire County Council (Education):** comment that based upon the latest assessment, taking into account all approved applications, LCC are seeking a contribution £60,148 for 5 primary school places.

## PLANNING CONSIDERATIONS

### Principle of the Development

34. When the previous outline application was considered at this site Euxton Mill was still in situ. The Mill has, however, been subsequently demolished and as such this site represents a cleared piece of previously developed land within the Green Belt.
35. Policy 1 of the Adopted Core Strategy, which was adopted post Framework and as such is compliant with The Framework, states:

*Focus growth and investment on well located brownfield sites and the Strategic Location of Central Preston, the Key Service Centres of Chorley and Leyland and the other main urban areas in South Ribble, whilst protecting the character of suburban and rural areas. Some Greenfield development will be required on the fringes of the main urban areas. To promote vibrant local communities and support services, an appropriate scale of growth and investment will be encouraged in identified Local Service Centres, providing it is in keeping with their local character and setting, and at certain other key locations outside the main urban areas.*

*Growth and investment will be concentrated in:*

*(a) The Preston/South Ribble Urban Area comprising:*

- i. The Central Preston Strategic Location and adjacent inner city suburbs, focussing on regeneration opportunities in Inner East Preston, the Tithebarn Regeneration Area and the New Central Business District Area in particular.*
- ii. The northern suburbs of Preston, focussing on Local Centres, with greenfield development within the Cottam Strategic Site and the North West Preston Strategic Location.*
- iii. The settlements south of the River Ribble, comprising:*
  - Penwortham, focussing on the regeneration of the District Centre, but with some greenfield development at the South of Penwortham and North of Farington Strategic Location.*
  - Lostock Hall, focussing on the regeneration of brownfield sites.*
  - Bamber Bridge, focussing on the regeneration of the District Centre and brownfield sites.*
  - Walton-le-Dale, Higher Walton, focussing on brownfield sites.*

*(b) The Key Service Centres of:*

- ii. Leyland / Farington, focussing on regeneration of Leyland Town Centre\* and brownfield sites.*
- iii. Chorley Town, focussing on the regeneration of the Town Centre\* but with some greenfield development.*
- iv. Longridge, where land within Central Lancashire may be required to support the development of this Key Service Centre in Ribble Valley.*

*(c) Strategic Sites allocated at:*

- i. BAE Systems, Samlesbury – employment*

- ii. *Cuerden (Lancashire Central) – employment*
- iii. *Buckshaw Village – mixed use*

*(d) Some growth and investment will be encouraged at the following Urban Local Service Centres to help meet housing and employment needs:*

- i. *Adlington*
- ii. *Clayton Brook/Green*
- iii. *Clayton-le-Woods (Lancaster Lane)*
- iv. *Coppull*
- v. *v. Euxton*
- vi. *vi. Whittle-le-Woods*

*(e) Limited growth and investment will be encouraged at the following Rural Local Service Centres to help meet local housing and employment needs and to support the provision of services to the wider area:*

- i. *Brinscall / Withnell*
- ii. *Eccleston*
- iii. *Longton*

*(f) In other places - smaller villages, substantially built up frontages and Major Developed Sites - development will typically be small scale and limited to appropriate infilling, conversion of buildings and proposals to meet local need, unless there are exceptional reasons for larger scale redevelopment schemes.*

36. The part of the borough in which the application site is located is not identified for growth within Policy 1. This policy does allow for small scale development, limited to appropriate infilling, conversion of buildings and proposals to meet local need. The proposed development is a small scale scheme and is considered to meet a need for self-build plots for which there is a need within the borough.
37. It is acknowledged that the re-use of previously developed sites within the Green Belt is not necessarily inappropriate development and where the historic use of a large site in the Green Belt may cease the site owners may consequently seek an alternative use. However, such sites are generally not in the most accessible locations, which is the case in respect of Euxton Mill, so are normally not appropriate for uses that would generate large numbers of trips to access-off site services.
38. The overall spatial vision of what Central Lancashire aspires to be like is what guides the Core Strategy. The Core Strategy includes locally distinctive Strategic objectives, which are the key issues that need to be addressed. Each of the relevant Strategic Objectives are set out within the relevant sections below. In respect of Policy 1 Strategic Objective SO1 seeks to foster growth and investment in Central Lancashire in a manner that:
- Makes the best use of infrastructure and land by focussing on the Preston/ South Ribble Urban Area, and the Key Service Centres of Leyland and Chorley.
  - Marries opportunity and need by focussing investment in Preston City Centre and other Strategic Sites and Locations, and Leyland and Chorley town centres.
  - Supports service provision in rural areas, particularly in the Rural Local Service Centres.

39. 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.

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

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.*

40. The application site constitutes previously developed land within the Green Belt, which would engage with 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.
41. Policy BNE5 of the Chorley Local Plan 2012 - 2026 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 infill:*  
 c) *The proposal does not lead to a major increase in the developed portion of the site, resulting in a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*  
*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.*
42. The construction of the new buildings would 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.
43. 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'.

44. 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. However, the Mill building has now been demolished and although the site as remains includes some hardstanding remnants of the former Mill the site is effectively a cleared site and as such any new building will have a greater impact on the openness of the Green Belt than the existing cleared site.
45. The proposed development therefore constitutes 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. The material considerations forwarded in support of the application, as set out above, are considered further below.
46. The application is supported by a planning statement, which is supplementary to the "Green Belt Policy Statement" and "The Supplementary Planning Statement" submitted with the previous outline application (Ref: 10/00456/OUTMAJ) which was approved. The document sets out the following points in support of the proposals:
- The proposed scheme offers significant benefits to the site and surrounding area, especially when assessed against the previous use of the site and the previously approved application for 61No. units and 84No. associated car parking spaces.
  - Shortly after the approval of the previous application (ref: 10/00456/OUTMAJ) the retirement operator, who was intending to take over the running of the site, withdrew their interest and our clients were consequently put in a situation that had not been anticipated or planned for.
  - Given the then depressed economic climate, funding the build of such a development was simply not feasible.
  - The uncertainty within the building industry and the economy at the time resulted in our client having to leave the site un-touched for a period of time whilst trying to maintain the significant mortgage payments.
  - It was then decided to place the site for sale on the open market with the current planning permission for the four storey retirement development.
  - It was not surprising, that as the months went by there was no serious interest and during these times there were regular calls from neighbours regarding squatters, vandals, gypsies etc going to and from the site on a regular basis.
  - The mill had been empty for a long time and was very derelict and clearly incapable of being refurbished.
  - The constant trespassing on the site was becoming a major concern to local residents and was also a very dangerous situation given the condition of the building. The building had become a blot on the landscape and was now a major public nuisance.
  - Given the seriousness of the situation, our clients assessed the situation and decided to try and do something about it. Therefore, our client decided that they would explore the possibility of partially demolishing the mill building.
  - The planning permission obtained was from an outline application, therefore as well as the standard condition referring to the approval of the 'reserved matter', which in this case was only landscaping, there were several conditions that needed to be discharged prior to building work commencing on site.
  - As planning law recognises any form of demolition as commencement of building work, it would have taken considerable time and expense to satisfy all the necessary conditions in order that demolition could take place. This time and expense was not feasible for our client especially given the on-going mortgage costs on the site. Therefore, our clients contacted Chorley Council to request if the wording of the conditions in the planning approval notice could be amended to read 'prior to the construction of the new buildings on site' as appose to 'prior to work commencing on site'. The Local Authority agreed to this re-wording and this then enabled our clients to proceed with the potential demolition of the mill.
  - Our client had to have a bat survey done prior to any part of the mill being demolished. This took several months to have done and was a significant cost. It was finally approved that the majority of the mill could be demolished, however the

base of the external walls of the mill, the wall fronting Dawbers Lane, the retaining wall running through the middle of the building at ground floor level and the floor slabs and foundations were all retained. In order to give the site a more open feel however, a lot of earth was moved around in order to grade the land which resulted in what was left of the mill being covered over.

- By having this work done, again at considerable cost, the dangerous and nuisance associated with the site was predominantly removed ensuring that the concerns to the local community were allayed.
- Notwithstanding this, the visibility to the traffic at a notorious accident black spot on Dawbers Lane was massively improved through the works carried out on site.
- This recent history and the current state of the site are of major importance in the context of planning policy.
- The partial demolition of the mill was done purely for reasons that would be beneficial to the local community, the local authority and motorists travelling along Dawbers Lane. It was done at a time our clients' intentions for the site were uncertain, given the economic climate.
- The recently submitted application for the site consisting of 14 houses is a massive reduction in the openness of the green belt in comparison to either the original Mill building or the approved building under application no. 10/00456/OUTMAJ,
- It is in this context, on how the openness of the green belt is affected by the proposed application, as oppose to comparing the proposed development of the site to an open field in the green belt.
- Also, given that up until September 2014 at which time the site was in the same state as it is now, Chorley Council were happy for a four storey apartment block comprising of 55 apartments and 6 cottages to be built on the site.
- Although the planning approval for this development expired and our client didn't have the funds to make it extant or submit a detailed application, the developability of the site was clearly acknowledged by Chorley Council, given that a total of 61 units were approved with car parking for up to 84 cars being provided.
- The partial demolition of the mill should not and cannot change the planning perspective of the site, particular given the reasons behind the demolition. The proposed application of 14 dwellings will minimise the impact on the green belt and turn the site from what has been an eye sore for over half a century to a superb elegant and subtle development of 14 detached dwellings.
- Such a development will only be beneficial to the local area and community, and should receive the support of the planning officer at Chorley Council.

47. It is not considered the factors above individually represent very special circumstances and the question for the decision taker is whether collectively those factors combine with sufficient weight to represent the very special circumstances that would overcome the harm to the Green Belt by reason of the openness.
48. It must be noted that the site was formerly occupied by the mill for a very long time and that the demolition took place pursuant to an Outline Permission, which had authorised the same as part of the redevelopment of the site. The site would always have had to go through a demolition and clearance phase to allow a redevelopment to proceed. As such it is reasonable to judge the issue of comparative effect on openness on the basis of the former mill rather than on the basis of a cleared site.
49. The fact that, following demolition of the mill under the Outline Permission, an application for approval of the reserved matters was not made for the whole of the site within the relevant three year time limit under condition 23, would seem an insubstantial reason for refusal of a redevelopment previously considered worthy of consent.
50. It is clear that there have been technicalities and associated complexities leading to the major planning principles, which have led to the stalled development of this site. It is considered that it is within the best interests of the locality and wider community that a solution is found to make progress, on what is a derelict site brownfield site, with a poor appearance. The proposed development would result in a significant improvement of the appearance of the site. The development would improve pedestrian access and linkages

with the right of way adjacent to the River Yarrow. There would also be 8 plots made available for self-build dwellings.

51. The circumstances that have been advanced in this case are specific and unique to this site. Therefore it is unlikely that they could be replicated elsewhere within the borough. It is considered on balance that together the factors put forward do represent very special circumstances in relation to this site that outweigh the harm to the Green Belt through inappropriateness. This is considered to overcome Green Belt policy set out in the National Planning Policy Framework and policy BNE5 of the Chorley Local Plan.
52. It is noted that the mill building took up a large proportion of the site area as single block. This created a considerable mass. The remainder of the site was hardstanding. The proposed development would not stray beyond the previously developed part of the site, and would result in a much reduced build mass with greater visibility through the site, increasing the sense of openness.
53. The scale of the built form that existed on site prior to its demolition equated to a volume of 34,826.68m<sup>3</sup>. Taking away the volume of the 6 cottages that the committee resolved to approve under application ref.15/01230/FUL, the remaining volume would be 32,413m<sup>3</sup>. The application is for 8 detached dwellings based on a self-build programme, with the reserved matters applications being constrained by an upper volume limit for the whole site.
54. On the basis that the site is a previously developed site in the Green Belt any development of the site should not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the previously existing development. In the instance of an application for outline planning permission, as is the case here, it is necessary to control to scale of development that can be carried out across the site. The footprint of the dwellings is set out on the proposed layout plan, however, to relate the impact of any development of the site to the previous 'existing' development it is considered necessary to place an upper limit on the cumulative volume of development across the site, based on the previous 'existing' volume of minus the volume of the 6 cottages.
55. The limit on the volume would be controlled through a legal agreement and the phasing of the site would be covered by condition. On this basis the quantum and scale of development that is proposed is considered to be acceptable and realistic given the controls that can be placed on volume through the section 106 legal agreement. The proposed development is therefore considered to be acceptable in principle having regard to the very special circumstances considered above and the constraints on future development that would be imposed.

#### Loss of Employment Land

56. 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, which aim to protect all existing employment premises and sites last used for employment uses. Policy 10 states:

*All existing employment premises and sites last used for employment will be protected for employment use. There will be a presumption that 'Best Urban' and 'Good Urban' sites will be retained for B use class employment use. Proposals on all employment sites/premises for re-use or redevelopment other than B use class employment uses will be assessed under the following criteria:*

- (a) there would not be an unacceptable reduction on the type, quality or quantity of employment land supply;*
- (b) the provision and need for the proposed use;*
- (c) the relative suitability of the site for employment and for the alternative use;*
- (d) the location of the site and its relationship to other uses;*
- (e) whether the ability to accommodate smaller scale requirements would be compromised;*
- (f) there would be a net improvement in amenity.*

*Any proposals for housing use on all employment sites/premises will need to accommodate criteria (a)-(f) above and also be subject to:*

*(g) convincing evidence of lack of demand through a rigorous and active 12 month marketing period for employment re-use and employment redevelopment;*

*(h) an assessment of the viability of employment development including employment re-use and employment redevelopment.*

57. Employment uses were specifically identified on this site at the time the Local Plan was developed and adopted. As such the development of the site for non-employment use would not compromise the Council's land allocations for employment and the overall employment land supply.
58. The site was previously in use for employment, however, this situation arose in response to historic industrial practices, which no longer apply and the site is no longer ideally positioned for employment uses. The site is in close proximity to residential properties and is in an area of attractive landscape quality in an area of rural character, better suited to less intensive uses.
59. A marketing exercise was carried out in relation to the original planning permission at the site, which demonstrated that there was no realistic demand. Although this was undertaken over 5 years ago, the situation on site has changed. There is no longer a building on the site and therefore any employment uses that could be supported would amount to outdoor storage type uses that would be of relatively limited economic value to the borough. In addition to this a business use of this type on the site would not be compatible with the six dwellings that the Council has resolved to approve and is unlikely to be viewed positively by local residents. The extent to which the site has evolved is such that employment uses on the site are likely to be considered harmful to the amenity of neighbouring occupiers and therefore it would be undesirable to market the site for employment.

#### Access and Highway Safety

60. The proposed development is for 8 dwellings to be accessed from Dawbers Lane, via two access points. The proposed vehicular access would enhance existing vehicular access points that served the mill in the same positions. The eastern access would be improved through the removal of the existing walls and railings to the west side of this access in order to improve visibility for drivers and to create a pedestrian footpath of at least 2m in width across the site frontage adjacent to Dawbers Lane. The pedestrian footpath is currently as narrow as 0.35m in places, which is not ideal for pedestrian safety. Low level landscaping would be carried out to the east side of this access to improve visibility. The access would be softened from a visual perspective with new surfacing and pedestrian footpaths on either side of the access road. The internal carriageway would be reduced in width to reflect the residential nature of the site.
61. The proposal is acceptable from an LCC highways perspective, on the basis that the development should be constructed to the Lancashire County Council Specification for Construction of Estate Roads in order to be acceptable for adoption under the Section 38 agreement of the Highways Act 1980.
62. In order to ensure that the highway improvements are carried out to an appropriate standard LCC Highways have proposed conditions, which it is recommended should be attached to any grant of planning permission.

#### Design, layout and impact on neighbouring occupiers

63. The application seeks outline planning permission and the only matters not reserved are layout and access. It is proposed that access to the site would be gained via two existing vehicular access points from Dawbers Lane. As only layout and access is being applied for, the design aspects of the proposals cannot be considered in detail. However, the proposed layout does allow for certain conclusions to be drawn and some assessment of the impact character and neighbour amenity to be made.

64. The existing stone wall to the front of the site adjacent to Dawbers Lane would be repaired and rebuilt in places. This would retain some of the character of the site. The site levels fall in height away from the highway and therefore the proposed dwellings would not dominate the street scape. Indeed the proposed development would not be particularly prominent from Dawbers Lane given that only two dwellings would be located adjacent to the highway, with the remaining 6 located adjacent to the river. There is a public right of way adjacent to the river and although views of the proposed development would be possible, the footpath adjacent to the river would be upgraded and the outlook would be improved.
65. The proposed dwellings would be large properties set in large plots, which is consistent with the character of Dawbers Lane in this location. The density of the proposal would be low as a result, again reflecting the character of this locality. There are a range of property types and design styles in the locality which provides some scope in terms of the eventual design of any dwellings on the site. The site is also relatively self-contained, which allows for the scope of more bespoke design. As such it is considered that the eventual development of 8 dwellings in the proposed layout can be implemented in a manner that does not harm the character of the area.
66. The nearest dwelling to the site are the 6 cottages that are under construction. These are positioned with a gable end facing plot 1 at a distance of approximately 12m. There is an existing dwelling at Mill End to the west of the site. This would be located approximately 19m from the nearest proposed property at plot 7. The dwelling at plot 6 would be located approximately 24m from the rear garden boundary at Mill End.
67. There is also an existing dwelling to the north of the application site on the opposite side of Dawbers Lane, known as Walmar. This is located at least 32m from the boundary of the application site and is positioned at a higher level. It is not therefore considered that there would be any undue impact on the occupiers of this dwelling from the proposed development.
68. Given the relative positioning of existing and proposed properties and the degree of separation as set out on the layout plan it is considered that the proposed development of 8 dwellings can be designed without causing any unacceptable loss of amenity to existing residents and any future residents within the proposed development site.

#### Ecological Implications

69. There is a Biological Heritage Site (BHS) designation on part of the site, which is in relation to the presence of both semi-natural woodland, which is ancient in character, and swamp and fen. The part of the BHS site that lies within the proposed development site comprises former car park, and therefore loss of this area will not result in the loss of biodiversity value from the BHS.
70. 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.
71. 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.
72. There is Japanese Knotweed and Himalayan Balsam on the site.
73. 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.
74. Greater Manchester Ecology has reviewed the submitted information and although they have commented that 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.

75. 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.
  - I would advise the applicant that 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.
76. 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?
77. 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.
78. 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.
79. 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.
80. 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.

81. 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 beneficial consequences to the environment by replacing the existing areas of hardstanding with a deliverable development which has the potential to deliver ecological improvements. The use of the site has diminished over time particularly following the demolition of the Mill building and now the site is in a poor state of repair. As such an appropriate reuse of the site needs to be secured particularly given the derelict nature of the current site and its impact on the visual amenities of the area. 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.
82. 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.

#### Public Open Space

83. The Open Space and Playing Pitch SPD was adopted for development control purposes at the Council meeting on 17th September 2013. Therefore, based upon the standards within the Local Plan Policies HS4A and HS4B and the approach in the SPD, the various open space typologies will be required as follows:

#### *Amenity greenspace*

84. 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 is therefore required from this development. The amount required is £140 per dwelling.

#### *Provision for children/young people*

85. 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 is therefore required from this development. The amount required is £134 per dwelling.

#### *Parks and gardens*

86. No contribution is required.

#### *Natural/semi-natural greenspace*

87. The site is within the accessibility catchment (800m) of an area of natural/semi-natural greenspace that is identified as being low quality and low value in the Open Space Study (site 1697 – adjacent Euxton Hall Gardens); a contribution towards improving this site is therefore required. The amount required is £557 per dwelling.

#### *Allotments*

88. There is no requirement to provide allotment provision on site within this development. The site is within the accessibility catchment (10 minutes' drive time) of a proposed new allotment site at Sylvesters Farm, Euxton (HW5.2). A contribution towards new allotment provision is therefore required from this development. The amount required is £15 per dwelling.

#### *Playing pitches*

89. 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.

90. Off site contributions towards the provision of public open space must be secured through a section 106 agreement.

#### Affordable Housing

91. 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.
92. 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.
93. It is still not considered that the site location would be appropriate for affordable housing due to its unsustainable location. The SPD does confirm that the Council's preferred outcome 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.
94. 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.

#### Public Right of Way

95. There is a public right of way that runs adjacent to the River Yarrow. This would be upgraded as a result of the proposed development, as it would directly improve access for the future occupiers of the proposed development. As a public right of way it would also be open to members of the public as it is now. It is recommended that the details of any such improvements should be secured by condition attached to any grant of planning permission. In addition to the improvements to the footpath itself pedestrian access would be formalised from Dawbers Lane to the public right of way through the creation of a footpath link.

#### Education

96. There is a request from Lancashire County Council for funding towards primary school places that amounts to £60,148 and as this is not an allocated site then the provision of this payment can be justified and it would be secured through the legal agreement.
97. It is noted that LCC education services only require contributions on major developments of 10 dwellings or more. The proposed development has reduced from 14 dwellings, on which the comments were based, to now consist of 8 dwellings, and therefore the requirement will have altered. The requirement for an education contribution will be updated on the addendum.

#### Sustainable resources

98. Policy 27 of the Core Strategy currently requires dwellinghouses to be built to meet Code for Sustainable Homes Level 4 which increases to Level 6 on 1st January 2016. 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:
99. *"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."*

100. *"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."*

101. As such, there is a requirement for the proposed dwellings to achieve a minimum Dwelling Emission Rate of 19% above 2013 Building Regulations in accordance with the above provisions.

#### Community Infrastructure Levy

102. The development would be CIL liable however as the intention would be to deliver a self-build scheme then the individual owners and occupiers of the plots would have to claim the self-build exemption in accordance with the regulations. It is therefore likely that there would be no CIL contribution from this development if all of the self-build exemptions are complied with.

#### **CONCLUSION**

103. Balancing the size and scale of the previously existing buildings, together with the character of the site and existing and potential level of activity on the site together with the mitigation proposals put forward and the community benefits, it is considered that the proposed dwellings (together with associated gardens, driveways and planting) would not have any greater impact on the openness of the Green Belt than the existing site at the time of the previous planning approval. The proposal is therefore considered to be an appropriate form of development within the Green Belt having regard to the specific very special circumstances put forward and in accordance with the Framework and the development plan as a whole.

**RELEVANT 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.

#### **RELEVANT HISTORY OF THE SITE**

**Ref:** 98/00239/FUL **Decision:** PERFPP **Decision Date:** 9 July 1998

**Description:** Side extension and structural repairs,

**Ref:** 10/00456/OUTMAJ **Decision:** PERFPP **Decision Date:** 21 October 2011

**Description:** 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)

**Ref:** 12/00856/OUT **Decision:** WDN **Decision Date:** 16 October 2012

**Description:** Proposed Construction of 11 Detached Dwellings

**Ref:** 5/5/10562 **Decision:** PERFPP **Decision Date:** 18 April 1974

**Description:** Change of use to storage and distribution of ice cream and garaging of vehicles

**Ref:** 14/00806/OUTMAJ **Decision:** WDN **Decision Date:**

**Description:** 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)

**Ref:** 14/00913/REM **Decision:** PERRES **Decision Date:** 11 December 2014

**Description:** Reserved matters application to address the landscaping associated with the approved cottages (pursuant to outline permission ref: 10/00456/OUTMAJ).

**Ref:** 14/01088/OUTMAJ **Decision:** WDN **Decision Date:** 2 December 2014

**Description:** 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

**Ref:** 14/01127/OUTMAJ **Decision:** WDN **Decision Date:** 10 February 2015

**Description:** Outline application for the erection of 55 apartments and communal facilities and associated surface car parking (retirement living) all matters reserved save for appearance, layout and scale.

**Ref:** 15/00971/DIS **Decision:** PEDISZ **Decision Date:** 4 April 2016

**Description:** 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

**Ref:** 15/00974/FUL **Decision:** APPRET **Decision Date:**

**Description:** Section 73 application to vary conditions 17 (contamination) and 20 (archaeological work) and remove condition 18 (permitted development rights) and 19 (over 55 age restriction) attached to outline planning approval 10/00456/OUTMAJ

**Ref:** 15/01046/DIS **Decision:** PEDISZ **Decision Date:** 14 January 2016

**Description:** Application to discharge condition 4 (tree survey) attached to reserved matters consent 14/00913/REM

**Ref:** 15/01230/FUL **Decision:** PDE **Decision Date:**

**Description:** Part retrospective application for the erection of 6 cottages with rear dormer windows (this part of the site has outline planning consent 10/00456/OUTMAJ and reserved matters approval 14/00913/REM for 6 cottages)

**Ref:** 86/00401/FUL **Decision:** PERFPP **Decision Date:** 21 October 1986

**Description:** Two storey extension of 1710 square metres to south side of mill and resiting of portacabins

**Ref:** 75/00489/FUL **Decision:** REFFPP **Decision Date:** 18 August 1975

**Description:** Replacement building for light industrial use

**Ref:** 74/00241/FUL **Decision:** REFFPP **Decision Date:** 12 May 1975

**Description:** Change of use to storage and distribution of ice cream and garaging of vehicles

#### Suggested Conditions

To follow