

# **CALDERDALE METROPOLITAN BOROUGH COUNCIL**

## **PLANNING COMMITTEE**

### **WARDS AFFECTED: MORE THAN THREE**

**Date of meeting: 1 August 2023**

**Chief Officer: Director of Regeneration and Strategy.**

## **1. SUBJECT OF REPORT**

APPLICATIONS FOR DETERMINATION RE PLANNING PERMISSION, LISTED BUILDING CONSENT/CONSERVATION AREA CONSENT, LOCAL AUTHORITY APPLICATIONS, CROWN APPLICATION OR CONSENT TO FELL PROTECTED TREES

- (i) Executive Summary
- (ii) Individual Applications

## **2. INTRODUCTION**

- 2.1** The attached report contains two sections. The first section contains a summarised list of all applications to be considered at the Committee and the time when the application will be heard. Applications for Committee consideration have been identified in accordance with Council Standing Orders and delegations.
- 2.2** The second section comprises individual detailed reports relative to the applications to be considered.
- 2.3** These are set out in a standard format including the details of the application and relevant planning site history, representations/comments received arising from publicity and consultations, the officers assessment and recommendation, with suggested conditions or reasons for refusal, as appropriate.
- 2.4** Where the Committee considers that a decision contrary to the recommendation of the Director of Regeneration and Strategy may be appropriate, then consideration of the application may be deferred for further information.
- 2.5** Where a Legal Agreement is required by the Committee, the resolution will be "Mindful to Permit Subject to a Legal Agreement being completed", combined with a delegation to the Director of Regeneration and Strategy.

### **3. IMPLICATIONS ARISING FROM REPORT**

#### **3.1 Planning Policies**

These are set out separately in each individual application report.

#### **3.2 Sustainability**

Effective planning control uses the basic principle of sustainable development by ensuring that development meets the needs of the present without compromising the ability of future generations to meet their own needs. Through the development control system, the Council can enable environmental damage to be minimised and ensure that resources are used efficiently and waste minimised. Particular sustainability issues will be highlighted in individual reports where appropriate.

#### **3.3 Equal Opportunities**

All applications are considered on their merits having regard to Government guidance, the policies of the Development plan and other factors relevant to planning. This will be done using the Development Control Code of Conduct for officers and members as set out in the Council's Standing Orders.

In the vast majority of cases, planning permission is given for land, not to an individual, and the personal circumstances of the applicant are seldom relevant.

However, the Council has to consider the needs of people with disabilities and their needs are a material planning consideration. Reference will be made to any such issues in the individual application reports, where appropriate.

The Council also seeks to apply good practice guidance published in respect of Race and Planning issues.

#### **3.4 Finance**

A refusal of planning permission can have financial implications for the Council where a subsequent appeal is lodged by the applicant in respect of the decision or if a case of alleged maladministration is referred to the Local Government Ombudsman or a Judicial Review is sought through the Courts.

In all cases indirect staff costs will be incurred in processing any such forms of 'appeal'.

There is no existing budget to cover any direct costs should any such 'appeal' result in 'costs' being awarded against the Council. These would have to be found by way of compensatory savings from elsewhere in the Planning Services budget.

Reference: 6/00/00/CM

Richard Seaman  
For and on behalf of  
Director of Regeneration and Strategy

**FOR FURTHER INFORMATION ON THIS REPORT CONTACT:**

Richard Seaman  
Corporate Lead  
For Planning Services

TELEPHONE :- 01422 392241

**DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:**

1. Planning Application File (numbered as the application show in the report)
2. National Planning Policy and Guidance
3. Calderdale Development Plan(including any associated preparatory documents)
4. Related appeal and court decisions
5. Related planning applications
6. Relevant guideline/good practice documents

**DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:**

[www.calderdale.gov.uk](http://www.calderdale.gov.uk).

**You can access the Council's website at the Council's Customer First offices and Council Libraries.**

**List of Applications at Committee 1 August 2023**

<b>Time &amp; No.</b>	<b>App No.</b>	<b>Location</b>	<b>Proposal</b>	<b>Ward</b>	<b>Page No.</b>
14.00	22/01083/FUL	Land Adjacent To Bryan Road Elland Calderdale	10 Executive New Build Dwellings	Elland	5 - 18
14.00	23/00227/COU	6 Dean Houses Dean House Lane Luddenden Sowerby Bridge Calderdale	Change of use from agricultural land to garden area including the construction of a raised terrace (Retrospective) (Resubmission of Planning Application ref: 22/00625/COU)	Luddendenfoot	19 - 32

Time Not Before: 14.00 - 01

Application No: 22/01083/FUL

Ward: **Elland**

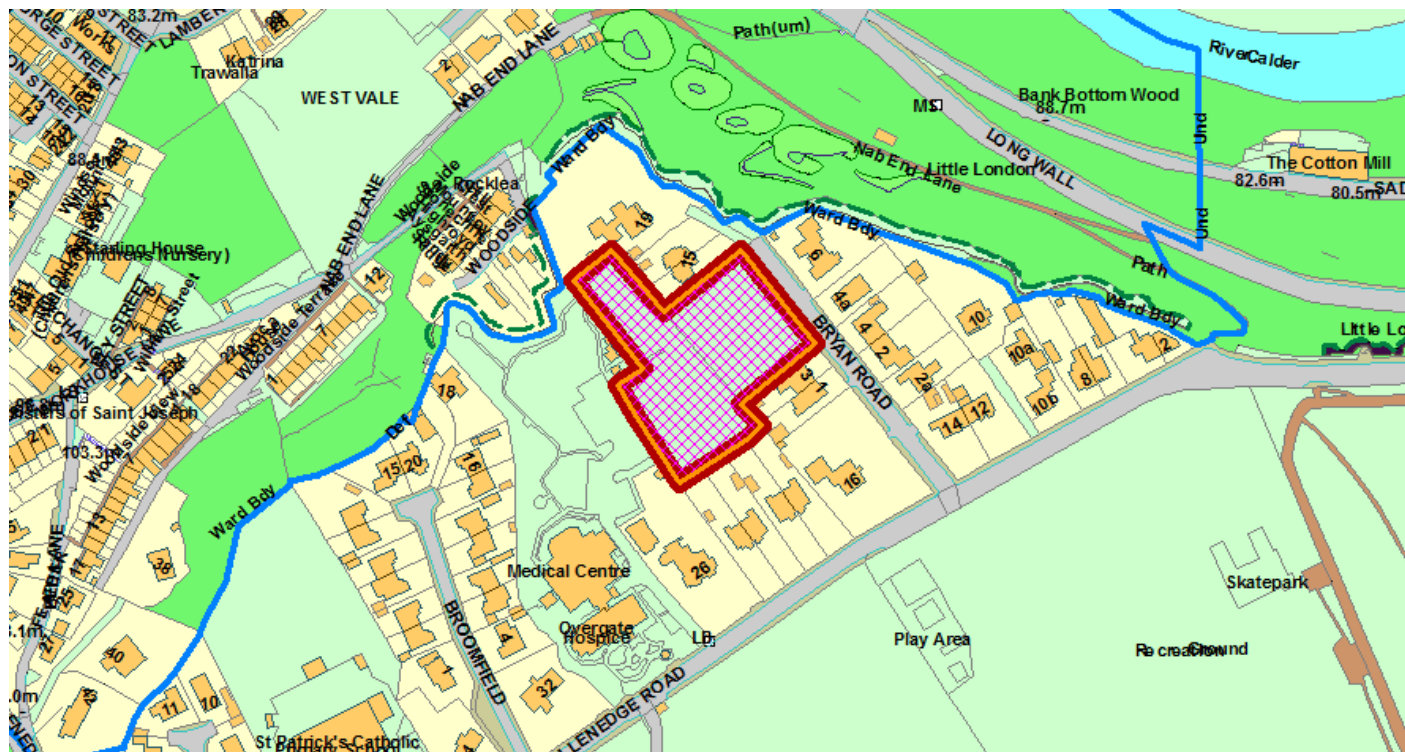
Area Team: **South Team**

Proposal:

**10 Executive New Build Dwellings**

Location:

**Land Adjacent To Bryan Road Elland Calderdale**



Applicant:

**RYMH Ltd**

Recommendation: **MINDFUL TO PERMIT SUB TO LEGAL AGREEMENT**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

### **Consultations:**

Education Services

Green Spaces And Street Scene

Lead Local Flood Authority

Highways Section

Countryside Services (E)

Environmental Health Services - Pollution Section (E)

West Yorkshire Police ALO

Green Spaces And Street Scene

Yorkshire Water Services Ltd (DM)

Highways Section

## **Description of Site and Proposal**

The site is 0.70ha parcel of land located on Bryan Road. The parcel of land is enclosed by a stone wall and brick walls to most of the boundaries. Part of the site is used to form the large open garden to the rear of 18-24 Hullenedge Road in Elland. The land fronting onto Bryan Road is located between 3 and 1 Bryan Road. The immediate area consists of large dwellings within large plots. There is a mix of housing types from detached bungalows, large, detached houses and large semi-detached dwellings.

Part of the site is adjacent to Overgate Hospice with associated gardens. There is an extant planning permission (19/00051/FUL) for the demolition of Springwood House and associated ancillary buildings. Construction of new 16 bed in patient unit and central shared entrance linking this to the existing hospice building. Provision of additional parking. Small extension to existing laundry. Addition of dormer windows to existing building at Overgate. The nearest plot to the Hospice site is plot 7, which due to its design and height has the potential to impact on the proposed extension at Overgate as both the hospice extension and plot 7 are near the boundary of the site.

Planning permission is sought for 10 executive new build dwellings.

The application is accompanied by the following supporting documents:

- Design and access statement
- Heritage statement
- Air quality assessment

**The application has been referred to Planning Committee due to the sensitivity of the proposal.**

## **Relevant Planning History**

An application for the proposed residential development (outline) was refused under delegated powers on 12<sup>th</sup> January 2004 (application number 03/02102/OUT).

An application for change of use from open land to domestic curtilage was refused under delegated powers on 27<sup>th</sup> April 2004 (application number 04/00453/COU).

An application for proposed residential development (outline) was permitted at planning committee on 30<sup>th</sup> September 2004 (application number 04/01600/OUT).

An application for residential development of five dwellings (reserved matters pursuant to outline permission 04/01600/OUT) was permitted under delegated powers on 30<sup>th</sup> November 2007 (application number 07/01317/RES).

### Key Policy Context:

<b>Calderdale Local Plan Designation</b>	No formal designation
<b>Calderdale Local Plan policies</b>	<b>GN6</b> Protection and Provision of Open Space, Sports and Recreational Facilities <b>HS1</b> Non-allocated sites <b>BT1</b> High Quality Inclusive Design <b>BT2</b> Privacy, Daylight and Amenity Space <b>BT3</b> Landscaping <b>BT5</b> Designing out Crime <b>BT4</b> The Design and Layout of Highways and Accesses <b>IM5</b> Ensuring Development Supports Sustainable Travel – Annex A Car & Bicycle parking standards <b>CC3</b> Water Resource Management <b>CC2</b> Flood Risk Management (Managing Flood Risk in New Development - Protection from Flood Risk <b>EN3</b> Environmental Protection
<b>National Planning Policy Framework</b>	<b>5.</b> Delivering a sufficient supply of homes <b>9.</b> Promoting sustainable transport <b>12.</b> Achieving well-designed places <b>15</b> Conserving and enhancing natural environment
<b>Other Constraints</b>	<b>Bat alert Area</b> <b>British Coal – Low Risk</b>
<b>Other material planning considerations</b>	<b>Climate Emergency Declaration (Jan 2019)</b>

### Publicity/ Representations:

The application was publicised with press notice, site notice and fifteen neighbour notification letters.

Fifteen letters of objection were received.

### Summary of Points: (Objection)

- Plots 9 and 10 are 6 feet from my garden fence – they will be cut back to provide a bigger garden for those plots. They will then overlook my property.
- Bungalow would be more suited to the area.
- Loss of sunlight at the back of my house.
- Increase in traffic and problems.
- No mention of fencing around the houses.
- Proposed houses are too close to existing houses.
- Original design of five bungalows would have been perfect for the site.
- Object to plot 7 in relation to its relationship to Overgate Hospice and what will be the proposed extension to the Hospice.
- The previous permission of five bungalows would have mitigated any overlooking concerns and would have been much more sensitive to the Hospice.
- Over development of the site.
- Not enough parking within the site they will end up parking on Bryan Road.

- Over development of the site.
- Overbearing on existing properties.
- Loss of privacy.
- All existing trees and shrubs have already been removed from the site.
- Over development of the site.

### **Parish/Town Council Comments**

The development is not located within the boundaries of a Parish Council.

### **Assessment of Proposal**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework 2021 (NPPF) then sets out the Government's planning policies for England and how these are to be applied, alongside other national planning policies. The NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

The NPPF has a presumption in favour of sustainable development, which means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; [*for example...land designated as Green Belt.*] or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This is reflected in Policy SD1 of the CLP.

### **Principle of Development**

The application site is a non-allocated site and CLP Policy HS1 is applicable. This policy states "Proposals for residential development (including those for the renewal of a previous planning permission) on a non-allocated site or building for conversion will be supported, provided that:

- a) The proposal complements the strategic objectives of the Local Plan;
- b) The demands generated from the proposed housing can be accommodated by existing infrastructure;
- c) There are no physical and environmental constraints on development of the site which cannot be mitigated;
- d) If the proposed development falls within Flood Risk Zones 2 or 3, it passes the flood risk Sequential Test, and where necessary, the Exception Test;
- e) The development creates no unacceptable environmental, amenity, traffic, safety, or other problems;
- f) The development conserves or enhances heritage assets and will not harm those elements which contribute to their significance, including their settings;
- g) The site does not have any recognised value for nature conservation; and
- h) The proposal complies with other relevant Local Plan policies.



The detailed policy criteria are considered under the relevant sections elsewhere in this report.

Furthermore, Officers consider that the application site is located in a sustainable location, close to a main road with a regular bus service into the town centre with access to all amenities and schools.

### **Layout, Design, Materials and Landscaping**

Policy BT1 of the Calderdale Local Plan, and National Design Guidance call for development to make a positive contribution to the quality of the existing environment or, at the very least, maintain that quality by means of high standards of design.

Section 12 of the NPPF paragraph 126 states:

*The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities...*

Paragraph 130 of the NPPF confirms that planning decisions should, amongst other matters, ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

The proposed layout shows large, detached dwellings in a cul-de-sac type arrangement with plots 5-10 having an internal access road to access the properties. Plots 1-4 will take access directly off Bryan Road.

There are five house types proposed. The materials proposed for the development are specified as being natural stone and ashlar for the walling and natural blue slate for the roof. Whilst natural stone and blue slate are acceptable and in keeping with the surrounding area, ashlar stone is not used in the immediate area and would thereby be at odds with the immediate area. As such, a condition is proposed requiring details of the walling and roofing material to ensure it is in keeping with the surrounding area.

The proposed house types are as listed below:

House type 5 (plots 5, 6 and 8) shows a 2 ½ storey dwelling having an entrance hall, wc, lounge and open plan kitchen/dining/living room on the ground floor, three bedrooms and family bathroom on the first floor and master en-suite and study within the roofspace.

House type 1 (plots 1 and 4) shows a 2 ½ storey dwelling having an entrance hall, wc, lounge, and open plan kitchen/dining/living room on the ground floor, three bedrooms and family bathroom on the first floor and master en-suite and further bedroom within the roofspace.

House type 2 (plots 2 and 3) shows a 2 ½ storey dwelling having an entrance hall, wc, lounge, and open plan kitchen/dining/living room on the ground floor, three bedrooms and family bathroom on the first floor and master en-suite and further bedroom within the roofspace.

House type 3 (plots 5, 6 and 8) shows a 2 ½ storey dwelling having an entrance hall, wc, lounge, media room and open plan kitchen/dining/living room and utility room on the ground floor, three bedrooms and family bathroom on the first floor and two en-suite bedrooms and laundry room within the roofspace.

House type 4 (plots 7) shows a 1 ½ storey dormer type bungalow having an entrance hall, open plan kitchen/dining and garden room, study, bedroom and lounge on the ground floor, and three bedrooms and family bathroom within the roofspace.

House type 5 (plots 9 and 10) shows a 2 ½ storey dwelling having an entrance hall, wc, lounge, and open plan kitchen/dining/living room on the ground floor, three bedrooms and family bathroom on the first floor and master en-suite and study within the roofspace.

Officers consider that the proposed dwellings would provide reasonably sized family homes and each dwelling would have sufficient parking.

Concerns have been raised from objections that the proposed dwellings would not be in keeping with the character of the immediate local area. Whilst there are a mix of properties in the vicinity which include large bungalows, large semi-detached dwellings and large detached dwellings in large gardens, Officers consider that it could be argued that the size of the dwellings are in keeping with the area. However, Officers do acknowledge that the proposed plot sizes are compact in comparison with the larger gardens of the surrounding houses.

Objectors have also been raised in relation to the proposed design and mass of plot 7, this was also a concern of the Local Planning Authority. Officer raised concerns that the proposed dwelling in the initial plans was an overdevelopment of the plot. Further discussions with the applicant took place and the applicant agreed to reduce the overall height of the dwelling on plot 7 from two and a half storeys to one and a half storeys. Officers agree that the amendments to the height of the dwelling on balance.

Officers consider that a suitable landscaping scheme and boundary treatments can be conditions to any consent granted.

Given the above subject to appropriate planning conditions, the proposal is considered to be comply with Policy BT1 of the CLP and guidance as set out in the NPPF.

### **Residential Amenity**

Policy BT2 of Calderdale Local Plan states, that development should not significantly affect the privacy, daylighting or amenity space of existing and prospective residents and other occupants. Annex A of the former and Annex 2 of the latter set out guidelines to help assess whether such impacts will arise.

There are 10 plots proposed within the application site which Officers consider to be reasonably distanced on the site to prevent any privacy and amenity issues within the site.

Plots 9 and 10 are the nearest plots to 19 Bryan Road.

Plot 9 is adjacent (to the rear) of 15 and 17 Bryan Road.

Plot 4 is adjacent 3 Bryan Road.

Plots 5 and 6 are located at the rear of 18-24 Hullen Edge Lane.

Plot 7 is the nearest dwelling to Overgate's extension.

Plot 1 (house type 1) is the first plot fronting onto Bryan Road. The side elevation of this plot has a blank side elevation with 15 Bryan Road. Therefore, there are no amenity issues.

Plot 2 (house type 2) sits to the north of the proposed access road into the site. It has a blank side elevation facing plot 1 and has two windows in its side elevation to the access road which serve a secondary dining room window at ground floor level and bathroom window at first floor level. Therefore, there are no amenity issues.

Plot 3 (house type 2) sits to the south of the proposed access road into the site. It has a blank side elevation facing plot 4 and has two windows in its side elevation to the access road which serve a secondary dining room window at ground floor level and bathroom window at first floor level. Therefore, there are no amenity issues.

Plot 4 (house type 1) is the fourth plot fronting onto Bryan Road. The side elevation of this plot has a blank side elevation with 3 Bryan Road. Therefore, there are no amenity issues.

Plots 5 & Plot 6 (house type 3) has main windows on the rear which are separated from 18 – 24 Hullenedge Lane by a boundary hedge. These properties are over 39m from the rear elevation of plots 5 and 6 and as such the distance is considered acceptable. The agent is proposing a 1.8m timber fence between the new dwellings and the existing dwellings. Therefore, there are no amenity issues.

Plot 7 (house type 4) is the nearest dwelling which has a rear elevation facing the Overgate Hospice site. As mentioned earlier in the report the original height of the dwelling proposed was significantly high and would have been overbearing on the Hospice proposed extension. Whilst it is acknowledged that the Overgate Hospice site is at a higher level than the application site, the sensitivity surrounding the Hospice Site is a material consideration when assessing the privacy and amenity of the proposed dwelling and adjacent site. As mentioned earlier amended plans have been sought by Officer and have since been received which show a reduction in height to form a one and a half storey dormer type bungalow. The main dormers on plot 7 are on the front elevation and only rooflights are shown on the rear elevation. On balance Officers considered that the reduction in height of plot 7 has minimized any detrimental impact to the adjacent hospice site.

Plot 8 (house type 3) is located directly behind plots 1 and 2 and to the front of plots 9 and 10. It is the same house type as plots 5 and 6 but without the attached garage to the side. Plot 8 proposes a blank side elevation and is over 21m from the rear elevations of plots 1 and 2 and as such the distance is considered acceptable.

Plots 9 and 10 (house type 5) are positioned side by side of each other. Plot 10 has a blank side elevation and is the nearest dwelling to 15 and 17 Bryan Road. The distance of those properties to plot 10 is over 15m. The distance required under annex 2 is 12m (main to side) and therefore the distance is considered acceptable.

To the rear of plots 9 and 10 is a large, detached bungalow at an approximate distance of 17m. These plots due to their proposed height and an objection from the occupier of the bungalow, have now been moved forward within the application site to prevent any overlooking and overbearing impact on the bungalow. Officers note that there is also a substantial high hedge which separates plots 9 and 10 from the detached bungalow, which needs to be reduced in width to allow some garden space for the new dwellings. As such, the distance is considered acceptable.

It is considered that the dwellings have been located within the application site so as not to impact on the privacy and amenity of each plot and any other third-party dwellings. Therefore, given the above the proposal is considered to satisfy CLP policy BT2.

### **Crime Prevention**

Calderdale Local Plan Policy BT5 sets out criteria for designing out crime.

The West Yorkshire Police Architectural Liaison Officer was consulted on the application and has commented that:

*I have studied the plans and have no objections to the proposals. However, I recommend the site should be built to "secured by design" standards to keep the calls for service to a minimum. The main method used by an offender to break into a dwelling, particularly in new builds, is by the lock snapping method. Therefore, please note the standard of locks that I require fitting to ALL external doors. The guidelines can be found in Homes 2016 document at [www.securedbydesign.com](http://www.securedbydesign.com).*

A condition has been added requesting the above. As such, the proposal is considered to be comply with Policy BT5 of the CLP.

### **Highway Considerations**

Calderdale Local Plan Policy BT4 requires that the design and layout of highways and accessed ensure the safe and free flow of traffic; allow access by emergency, refuse and service vehicles; provide convenient and safe pedestrian routes and connectivity; incorporate traffic calming, and speed management and reduction; provide an attractive environment; and help reduce opportunities for crime.

Annex A of the emerging Local Plan sets out car & bicycle parking standards with IM5 ensuring development supports sustainable travel.

CLP policy IM4 states that:

*"Decision makers will aim to reduce travel demand, traffic growth and congestion through the promotion of sustainable development and travel modes. This will be achieved by a range of mechanisms that mitigate the impacts of car use and promote the use of other forms of transport with lower environmental impacts..."*

Paragraphs g and j of IM4 are also relevant as they seek to encourage cycle usage and the provision of electric charging points.

Paragraph 112 e of the NPPF establishes that development should be designed where practical to incorporate facilities for charging plug-in and other ultra-low emission vehicles. In accordance with this, a condition is proposed requiring the installation of a suitable facility to permit the recharge of an electrical battery powered vehicle that may be used in connection with that dwelling.

The proposed access to the application site would be taken off Bryan Road.

The Assistant Director (Strategic Infrastructure) – Highways was consulted on the application and initially made the following comments: -

*"There are no highway objections in principle to this application as submitted subject to the additional detailing requested."*

Amendments have been sought through an amended plan and Highways Officers have confirmed that they have no objections subject to planning conditions including submission of a construction site management, details of cycle storage, boundary treatments, surfaced and drained parking, and EV charging.

Objections have been raised in relation to highways safety, additional traffic and parking concerns however Highways have raised no highways safety concerns.

Therefore, given the above subject to the suggested planning conditions being attached to any consent granted the proposal is therefore considered to comply with Policies BT4 and IM4 of the CLP and guidance as set out in the NPPF.

### **Flooding and Drainage**

Calderdale Local Plan Policy CC3 establishes that the Council will work to protect the quality and quantity of water resources including groundwater, that major developments should incorporate sustainable drainage systems unless clearly shown that they would be inappropriate, and development will only be permitted if it can be demonstrated that the required water supply and wastewater infrastructure is available or can be improved.

Applicants will need to demonstrate that adequate foul and surface water drainage infrastructure is available to serve the proposed development and that ground and surface water is not adversely affected.

The applicant proposes both the foul sewage and surface water being disposed of by the mains sewer. With regards to drainage, the agent has not provided a surface water drainage assessment therefore full drainage details would be conditioned to any consent granted.

Therefore, given the above subject to the inclusion of a condition requesting full drainage details, the proposal would comply with CLP Policies CC2 and CC3.

### **Wildlife Conservation and Biodiversity Net Gain**

The NPPF also seeks to enhance the natural environment and indicates that opportunities to improve biodiversity should be integrated into development. The Calderdale Local Plan Policy GN3 requires that development follows the mitigation hierarchy and achieves measurable net gains in biodiversity.

The Council's Ecologist has provided comments on the application and has confirmed that having reviewed the *"Preliminary Ecological Appraisal, Biodiversity metric and Biodiversity Accounting Assessment prior to site clearance, the main habitats on site were neutral grassland and scrub, both habitats of medium distinctiveness. Trees (also medium distinctiveness) are also present and are proposed to be retained. As recommended by Defra guidance, the baseline value of the site has been assessed as if the habitats had not been removed."*

*The proposed site habitat creation is limited, with small areas of grassland and lengths of hedgerow in fragmented areas to be created across the site. The design also relies on privately owned gardens being vegetated and for several trees to be planted and reach maturity over a period of over 30 years. Even allowing for the above prescriptions the site development will overall in a slight Biodiversity Net LOSS as opposed to the required 10% Biodiversity Net Gain. There will be a loss of 100% of scrub and 89% of neutral grassland and, as pointed out in the Biodiversity Accounting Assessment, trading rules have not been met and off-Site compensatory habitat creation and/or enhancements measures are required. These requirements can be met through a payment of  $\text{£}25,000 \times 0.72 = \text{£}18,000$  to the LPA."*

The Council's Ecologist has confirmed that there are *no objections to this application providing the above payment is secured through a legal agreement and suggested conditions are attached to any consent granted.*

Therefore, subject to the suggest conditions and the financial contribution of £18,000 secured by way of a legal agreement, the proposal would be considered acceptable in relation to Policy GN3 of the CLP and guidance as set out in the NPPF.

## **Provision of Open Space**

Policy GN6 of the Calderdale Local Plan requires for all new residential developments to provide for the recreational needs of the prospective residents, by providing, laying out and maintaining recreational and amenity open space of a scale and kind reasonably related to the development within an agreed timescale or where on-site provision cannot be delivered, by way of a financial contribution to improving local off-site provision.

The Council's Open Space Officer has reviewed the application and confirmed that buffers of 240m, 400m, 600m and 1200m have been drawn round the development site to indicate the accessibility distances for the different open space typologies. The response from the Open Space Officer also confirms that given the small-scale nature of the development it is not considered practical to include onsite provision, however, does confirm that a financial contribution should be made to improve the open space amenities in the surrounding area, such as Hullenedge Park and the response confirms that a financial off-site contribution of £29,184.

Officers consider that subject to this off-site contribution being secured through a legal agreement the proposals would comply with Policy GN6 of the CLP.

## **Infrastructure and other Needs**

Calderdale Local Plan Policy IM10 establishes that applications will be permitted where mechanisms are in place to ensure the impact of the development on infrastructure can be satisfactorily mitigated. In applying this policy regard will be given to the Council's Infrastructure Delivery Plan and any adopted Supplementary Planning Documents.

The Assistant Director – Education and Inclusion made the following comments: -

“There is a shortage of secondary places in the area and the projections indicate the numbers are set to increase. We therefore require a contribution of £37,234 towards secondary provision.”

In order to secure the education contribution a legal agreement would be required.

## **Land stability**

The site falls within an area with a low potential of historic coal mining activity. As such, the standing advice will be included as an informative. Given the above, the proposal would satisfy CLP Policy EN3 which discusses development on potentially unstable land.

## **CONCLUSION**

**The proposal is considered to be acceptable subject to the conditions specified below and entering into a legal agreement to secure an education contribution of £37,234; an off-site contribution for Open Space of £29,184, and a contribution of £18,000 to secure an off-site Biodiversity Net Gain contribution. The recommendation to GRANT planning permission has been made because the development is in accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan and National Planning Policy Framework set out in the 'Key Policy Context' section above and there are no material considerations to outweigh the presumption in favour of such development.**

Richard Seaman  
For and on behalf of  
Director of Regeneration and Strategy

Date: 23<sup>rd</sup> June 2023

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:

Janine Branscombe (Case Officer) on 01422 392215

Or

Ruth Hardingham (Lead Officer)

## **Conditions**

1. The development shall be carried out in accordance with the schedule of approved plans listed above in this decision notice, unless variation of the plans is required by any other condition of this permission.
2. No drainage works shall begin until full details of the foul and/or surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage and external works for the development (taking into account flood risk on and off site and including details of any balancing works, off-site works, existing systems to be re-used, works on or near watercourses and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.
3. Prior to the first occupation of the dwellings details that show how 'Secured by Design' principles have been incorporated into the scheme shall be submitted for the written approval of the Local Planning Authority and once approved the development shall be implemented in accordance with the approved details prior to occupation or use of any part of the development hereby approved.
4. Notwithstanding any details shown on the permitted plans, the facing of the development shall not begin until details of the proposed facing materials, including a sample panel on site, have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the development shall be constructed in accordance with the details so approved and shall be so retained thereafter.
5. Notwithstanding any details shown on the submitted plans, the roofing of the development shall not begin until details of the roofing material have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the roofing of the development shall be constructed in accordance with the details so approved and shall be so retained thereafter.
6. In connection with any garage, driveway, vehicle hardstanding or car-port hereby approved for construction within the boundary of the dwellings, prior to the occupation of the dwellings, there shall be installed a facility to permit the recharge of an electrical battery-powered vehicle. Unless otherwise required by the location the installation(s) shall comply with IEE regulations, IEC 61851-1 Edition 2, and BSEN 62196-1. The facility shall be so retained thereafter.
7. Prior to the first occupation of the development a scheme of landscaping the site, which shall include details of all existing trees and hedges on the land and details of any to be retained, shall be submitted to and approved in writing by the Local Planning Authority.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the development or the completion of the development, whichever is the sooner; and shall be so retained thereafter, unless any trees or plants within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased. These shall be replaced in the next planting season with others of similar size and species, (unless otherwise agreed in writing by the Local Planning Authority) and these replacements shall be so retained thereafter.
9. Prior to the completion of the walls three permanent bat roosting features constructed of concrete, woodcrete, ecostyrocrite or similar material shall be installed within the fabric of three of the dwellings within 50cm of the SW facing roofline (but not directly above any windows). The bat roosting features shall be installed in accordance with these details and retained thereafter. Prior to the completion of the walls two permanent swift nesting features constructed of concrete, woodcrete, ecostyrocrite or similar material shall be installed within the fabric of two of the dwellings within 50cm of the NW facing roofline (but not directly above any windows). The swift nesting features shall be installed in accordance with these details and shall be so retained thereafter.
10. All boundary walls or fences constructed during the development must contain 13x13cm holes at ground level to facilitate the free movement of hedgehogs.
11. No removal or management of any tall vegetation, including brambles, ivy, trees and shrubs, should be carried out between 1st March and 31st August inclusive unless a competent ecologist has undertaken a bird survey immediately before the vegetation has been cleared and provided written confirmation that no birds will be harmed or disturbed and/or that there are appropriate measures in place to protect nesting birds on site. Any such written confirmation should be submitted to the Local Planning Authority.
12. No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following.
  - a) Risk assessment of potentially damaging construction activities.
  - b) Identification of 'biodiversity protection zones'.
  - c) Practical measures to avoid or reduce impacts during construction.
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works.
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities of an ecological clerk of works (ECoW) or similarly competent person.
  - h) Use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed by the Local Planning Authority.
13. Prior to the installation of any boundary treatments details shall be submitted to and approved in writing by the Local Planning Authority. The treatments so approved shall then be provided in accordance with the approved details and shall thereafter be retained.
14. Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the Local Planning Authority, detailing the containment, control and removal of Himalayan cotoneaster (*Cotoneaster simonsii*) and montbretia (*Crocodymia xrocodymiflora*) on site. The measures shall be carried out strictly in accordance with the approved scheme.



15. Prior to the first occupation of each dwelling secure cycle storage facilities shall be provided in accordance with details of location and design that shall first have been submitted to approved in writing by the Local Planning Authority.
16. The use of the development hereby permitted shall not commence until the car park shown on the permitted plans has been provided, surfaced, sealed and marked out in accordance with the permitted plans and the car park shall thereafter be retained for that purpose for the occupiers of and visitors to the development.
17. No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The scheme shall include, but not be limited to, details of:
  - i) measures for how construction traffic can access the site safely and how potential traffic conflict can be minimised;
  - ii) the hours of operation and deliveries;
  - iii) measures for the prevention of mud and other material being deposited on the public highway, including full details of any equipment used to clean the wheels and chassis of vehicles, its location and means of drainage if any; and
  - iv) location of hardstanding areas, and internal haul roads.Development shall be carried out in accordance with the approved details, and any identified mitigation measures shall be implemented to the full written satisfaction of the local planning authority, before the construction works are commenced, and shall be retained as such for the duration of the construction works.
18. Notwithstanding the submitted plans and prior to occupation of the dwellings, details of the proposed sheds and cycle stores (including the heights, design and materials) shall be submitted to and approved in writing by, the Local Planning Authority. The development of the sheds and cycle stores shall then be carried out in accordance with the approved details and retained as such thereafter.

## **Reasons**

1. For the avoidance of doubt as to what benefits from planning permission and to ensure compliance with the Development Plan and National Planning Policy Framework.
2. To ensure proper drainage of the site and to ensure compliance with Policies CC3 and CC4 of the Calderdale Local Plan.
3. In the interests of safety and security of the property and to ensure compliance with Policy BT5 of the Calderdale Local Plan.
4. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policy BT1 of the Calderdale Local Plan.
5. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policy BT1 of the Calderdale Local Plan.
6. In the interests of sustainability and to ensure compliance with Paragraph 112 ( e) of Section 9 (Promoting sustainable transport), of the National Planning Policy Framework.
7. In the interests of amenity and to help achieve a satisfactory standard of landscaping and to ensure compliance with Policies BT1, BT2 and BT3 of the Calderdale Local Plan.

8. In the interests of amenity and to help achieve a satisfactory standard of landscaping and to ensure compliance with Policies BT1, BT2 and BT3 of the Calderdale Local Plan.
  9. In the interests of conservation and to protect the ecological species and in order to ensure compliance with policy GN3 of the Calderdale Local Plan.
  10. In the interests of conservation and to protect the ecological species and in order to ensure compliance with policy GN3 of the Calderdale Local Plan.
  11. In order to protect and enhance biodiversity and to ensure accordance with Policy GN3 of the Calderdale Local Plan and section 15 of the National Planning Policy Framework.
  12. In order to protect and enhance biodiversity and to ensure accordance with Policy GN3 of the Calderdale Local Plan and section 15 of the National Planning Policy Framework.
  13. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policy BT1 of the Calderdale Local Plan.
  14. In order to protect and enhance biodiversity and to ensure accordance with Policy GN3 of the Calderdale Local Plan and section 15 of the National Planning Policy Framework.
  15. In the interests of the sustainability of the development and in order to ensure compliance with Policy IM5 and Annex A of the Calderdale Local Plan.
  16. To ensure that provision for vehicle parking clear of the highway is available for users of and visitors to the development in the interests of highway safety and to ensure compliance with policies BT4 and Annex A of the Calderdale Local Plan.
  17. To safeguard residential amenity, prevent highway safety issues due to mud or other materials on the road, and to reduce congestion and mitigate any obstruction to the flow of traffic on the highways network.
  18. In the interests of visual amenity and to ensure compliance with policy BT1 of the Calderdale Local Plan.
-

Time Not Before: 14.00 - 02

Application No: **23/00227/COU**

Ward: **Luddendenfoot**  
Area Team: **North Team**

Proposal:

**Change of use from agricultural land to garden area including the construction of a raised terrace (Retrospective) (Resubmission of Planning Application ref: 22/00625/COU)**

Location:

**6 Dean Houses Dean House Lane Luddenden Sowerby Bridge Calderdale HX2 6TP**



Applicant:

**Mr S Main**

Recommendation: **REFUSE**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

### **Consultations:**

Highways Section

### **Description of Site and Proposal**

The site is located approximately 700m north of Luddenden Village. Properties 1-3 and 7, 8 and 9 Dean House Farm to the north-west of the site are listed. The site is located to the end of a row of cottages with access through the farmyard. Public footpath 05/225 runs along the north of the site and continue in an easterly direction.

Planning permission is sought for the Change of use from agricultural land to garden area including the construction of a raised terrace (Retrospective)

**The application is brought to Planning Committee at the request of Councillor Scott Patient.**

### **Supporting Information**

The proposal is supported by the following documents:

- Planning and Heritage Statement
- Very Special Circumstances

### **Relevant Planning History**

An enforcement file is pending consideration regarding the works included as part of this application 21/60060/ENF. If the application is refused, then further investigation will be carried out.

Application 22/00625/COU for the Change of use from agricultural land to garden area including the construction of a raised terrace (Retrospective) was refused on the 25<sup>th</sup> November 2022

### **Key Policy Context:**

<b>Local Plan Designation/Allocation</b>	Green Belt Special Landscape Area Landscape Character
<b>Calderdale Local Plan Policies</b>	<b>GB1</b> Green Belt <b>GN4</b> Special Landscape Areas <b>SD1</b> Presumption in Favour of Sustainable Development <b>HE1</b> Historic Environment <b>BT1</b> High quality, inclusive design <b>BT2</b> Privacy, Daylighting and Amenity Space <b>EN3</b> Environmental Protection <b>IM4</b> Sustainable Travel <b>IM5</b> Ensuring Development Supports Sustainable Travel <b>BT4</b> The Design and Layout of Highways and Accesses <b>CC1</b> Climate Change <b>CC3</b> Water Resource Management <b>GN3</b> Natural Environment <b>MS2</b> Mineral Safeguarding Areas
<b>National Planning Policy Framework Paragraphs</b>	<b>12. Achieving well-designed places</b> <b>13. Protecting Green Belt Land</b> <b>14. Meeting the challenge of climate change, flooding and coastal change</b> <b>15. Conserving and enhancing the</b>

	natural environment 16. Conserving and enhancing the historic environment
Other relevant planning Constraints	Bat Alert Area Sandstone Mineral Safeguarding Area Surface Coal Mineral Safeguarding Area Within 50m of a listed building Adjacent public footpath 05/225
Other Material Planning Considerations	Climate Emergency Declaration (Jan 2019)

### **Publicity/ Representations:**

The application was publicised by site notice and press notice and 6 neighbour notification letters.

Six letters of support and three letters of objection have been received including one letter of support from Councillor Patient.

### **Summary of Points Raised**

#### **Support**

- Family home needs a larger garden
- No impact on neighbouring houses
- Proposal looks aesthetically pleasing
- Been in place since last year and doesn't impact on neighbouring properties
- Much needed outside space
- In keeping with existing houses
- Does not overlook anyone
- Secluded from rest of houses
- Does not detract from views
- Works have been carried out sympathetically
- Proposal backs on to farmers field and the raised retaining wall means that their cattle can't eat anything toxic from the garden
- They need the garden as they have children
- Wall in keeping with the rest of the terrace
- Safe place for children to play
- Saving a child's life is a special circumstance
- Permission would not be granted nowadays without a larger garden
- Unobtrusive and thoughtfully designed
- Reduces noise for neighbouring properties from children playing as they don't have to play in the small front garden
- Will blend in more overtime

#### **Object**

- Current government advice sets out 5 purposes including at no 3 'to assist in safeguarding the countryside from encroachment.

- Cannot be considered as 'very special circumstances' but opportunistic and inappropriate in the Green Belt.
- Not incidental to the enjoyment of the existing dwelling, but could be the foundations for a new dwelling,
- Tons of concrete have been poured into the Green Belt as a foundation for the wall.
- Supporting statement says construction is 77sq metres but in reality it is much larger being approx. 10 metres deep and 11 metres wide ie 110 sq metres.
- The Civic Trust objects as the extension does not enhance the setting, breaches the rules, and encroaches in a bad way on the Green Belt, spoiling the look of the Victorian and earlier terrace at Deanhouses.
- The development in question is in the curtilage of a hamlet of cottages and farm buildings which includes listed buildings.
- Out of proportion lump of cement and unnatural looking stones
- Dean House cottages is made up of a curtilage of 3 Grade 11 listed cottages built in 1660. This is much marred by the 'lawned area' now attached to 6 Dean Houses towering some 13 feet above the hillside and its uncompromising appearance and jutting out at an almost equal distance down towards the valley.
- In breach of Green Belt rules
- Impacts on openness
- Eyesore

### **Ward Councillor Comments**

Councillor Scott Patient requests that the application is referred to Planning Committee if the recommendation is to refuse and makes the following comments:

*"I'd just say that the space that has built has not disrupted the openness of the surrounding green space. It has been designed for low key family use, as outdoor amenity and is a very modest amount of extra land. There is sufficient public good, to outweigh any perceived harms to the fields and will benefit any future owners of the property."*

*Just adding my request for this to go to planning committee if officers are minded to refuse."*

### **Parish/Town Council Comments**

The development is located outside the boundaries of a parish council.

### **Principle of Development**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) compliments this requirement. The NPPF was revised on 20 July 2021 and sets out the Government's planning policies for England and how these are expected to be applied, alongside other national planning policies. Paragraph 219 of Annex 1 (Implementation) of the NPPF advises to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

The Calderdale Local Plan (CLP) was adopted by the Council on 22 March 2023. Its policies are aligned with those in the NPPF and they carry full weight.

At the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 11 of the NPPF establishes that for decision taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; [*for example...Green Belt*] or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

**This is reflected in Policy SD1 of the CLP.**

The framework indicates that development should be restricted if it is in the Green Belt if there is a clear reason for refusal and if so the presumption in favour of development does not apply.

According to the NPPF, 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. The NPPF goes on to establish that the purposes of the Green Belt are:

- *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*

In relation to inappropriate development, the NPPF states that:

*“147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*

*148. 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 resulting from the proposal, is clearly outweighed by other considerations.’”*

As stated above, Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Development in the Green Belt is inappropriate (and only permissible under very special circumstances) unless it falls with the closed lists of exceptions set out in paragraphs 149 and 150 and CLP policy GB1 which reflects paragraphs 149 and 150 of the NPPF.

The proposal includes the construction of a raised terrace (retrospective) and one of these exceptions in paragraph 149 (c) NPPF which is also reflected in CLP Policy GB1 (I) c) is the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. Section 336 of the Town and Country Planning Act 1990 states that a building includes any structure or erection. The NPPF defines ‘original building’ as ‘a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.’ However, the term ‘disproportionate’ is not defined and is therefore a matter of planning judgement.

The Council's calculation based on the applicant's supporting information shows that the extension has resulted in an increase of 46% of the floorspace, of the original building. In addition to the numerical assessment, it is important to consider the precise nature of the site and proposal. The extension would through its length, width, height and proximity, add significant bulk and massing to the house. Thus, in considering the overall increase in the size of the original building reasonable and objectively and with reference to the specific context of the site, the proposal would, in officers' judgement, result in a disproportionate addition. As a result, the proposal is not considered to satisfy CLP policy GB1 (I)c nor paragraph 149c of the NPPF.

The proposal also includes the change of use of land from agricultural to residential garden in order to facilitate a raised terrace to form an extension to the garden. Although engineering works have been carried out to construct the raised terrace, this has also involved a material change of use of land from what was a farmer's field to provide a garden extension for the dwelling. Paragraph 150 (b) NPPF and CLP Policy GB1 (II) (b) states that engineering operations are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 150 (e) NPPF and CLP Policy GB1 (II) (e) specifies that material changes in the use of land, such as changes of use for outdoor sport or recreation, or for cemeteries or burial grounds are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

The proposal includes a 2m high stone wall with timber post and rail fence at a height of 1.2m above. The development would extend 8.2m by 9.4m and as such would be prominent in the open countryside. The development would introduce a substantial structure where there was previously just a sloping field. Although natural stone has been used it is random coursed and not in keeping with the rest of the row of properties making it more noticeable in the open countryside.

As such, the proposal would, due to the material change of use and the provision of a garden and associated domestic paraphernalia, together with the engineering operations which include associated structures, raised terrace and walling, impact on the openness of the Green Belt. The essential characteristic of Green Belts are their openness and permanence. Openness has generally been held to be the absence of development and it has both a spatial and visual aspect. The proposal is in an area where there was no development before. In simple spatial terms, this would have a clear and demonstrable effect on the openness of the Green Belt by introducing development to land which was previously permanently open. Furthermore, the development is considered to not only be visually intrusive which fencing and screening would not help but would impact further, it would extend the boundary of the garden with its built form where there was previously none. This would impact on the landscape both visually and spatially. It therefore fails to preserve the openness of the Green Belt. The proposal would also conflict with the Green Belt purpose as it would encroach into the countryside.

It is therefore considered that the development falls outside criteria b) and e) of CLP policy GB1(II).

The proposed extension, engineering operations and material change of use of the land do not fall under any of the remaining criterion set out in paragraphs I or II of CLP policy GB1 or 149 and 150 of Section 13 of the NPPF.

As such as the development is inappropriate and is therefore by definition, harmful to the Green Belt and should not be approved except in very special circumstances.



## **Very Special Circumstances**

CLP Policy GB1 (III) states:

*III. Uses other than those identified will constitute inappropriate development and will not be supported except in very special circumstances to be demonstrated by the applicant. Development which is not inappropriate should not detract from the visual amenity of the Green Belt by reason of siting, materials or design or lead to traffic, amenity, environmental or other problems which cannot be effectively mitigated.*

As set out above in paragraph 148 of the NPPF:

*“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 resulting from the proposal, is clearly outweighed by other considerations.’”*

A Planning Statement and a document headed ‘Similar applications on Neighbouring Houses’ supports the application and sets out the need of the garden identifying the small scale garden that existed with the property and other properties in the locality that have had approval for extended gardens.

There is now no specific policy for new gardens in the Green Belt set out within the Calderdale Local Plan. The policy refers only to the listed criterion under policy GB1 and paragraphs 149 and 150 of the NPPF.

The Planning Statement identifies that the garden is small scale representing 77sqm, it does not form an irregular edge as it extends to the south of the site and the proposal is bounded by a stone wall and timber post and rail fence, furthermore, the site is not in a Conservation area and given the location, the statement ascertains that the setting of the listed buildings would not be affected. The statement also considers the proposal is not considered to affect the wildlife corridor nor would it require a diversion of the PROW 05/225. The site is no longer identified as a wildlife corridor in the CLP.

The Statement goes on to say that there would be no BE2 issues, and the proposal would not result in a significant loss of agricultural land. Policy BE2 has now been replaced by BT2 in the CLP.

The applicant has asked that the need for the garden is considered due to the limited existing garden close to a car park, and that the garden has provided a safe place for their children to play away from tractors and livestock. They have also previously advised that they have treated the wall with ‘Liquid Weather’ to allow it to weather and reduce the impact.

The examples given with regard to extensions of gardens are all over 13 years ago when there was a policy for gardens in the Replacement Calderdale Unitary Development Plan. However, as can be seen these were for simple fenced off areas with no large raised development sited on them. Permitted development rights would have also been removed to restrict structures and outbuildings. Furthermore, each application is assessed on its own merits.

The proposed garden extension is not a simple fenced off area of land it involves the construction of a raised terrace, and it extends both to the south west of the site and the south east and as such does extend into the agricultural field creating an irregular edge. Although natural stone has been used, it is randomly coursed and as such is not in keeping with the rest of the terraced properties. It is noted that it has been treated but this does not overcome the random coursing which is out of

character with the area. Thus, the resultant development is harmful to the openness of the Green belt.

In terms of other harm, the proposal would harm the setting of the nearby listed buildings but as required in the NPPF there is inadequate justification for the harm and no public benefit. Furthermore, the design, location and scale would impact on the character of the area and the visual amenity of the Special Landscape Area.

The applicant's need for a safe, larger garden is taken into consideration, but this does not outweigh the harm to the Green Belt by reason of inappropriateness; the harmful impact on the openness of the Green Belt and other harm caused to the Special Landscape and the setting of the listed buildings. The applicant may move on in the future, but the raised terrace would remain. The NPPF and policy GB1 advise that there has to be **very** special circumstances provided to outweigh the harm to the Green Belt. The creation of a larger garden is not considered to be **very** special circumstances.

Given the above, the principle of development is not considered to be acceptable and no very special circumstances have been provided that would outweigh the harm the development would have on the openness of the Green Belt.

Given this, the proposal would be contrary to CLP policy GB1 and the criteria set out in Section 13 of the NPPF.

### **Visual Amenity, Layout, Design and Materials**

CLP Policy GN4 - Landscape - Special Landscape Area sets out that:

*“...Proposals for development within or affecting the Special Landscape Area (SLA) or its setting should be carefully designed to ensure they are in keeping with their location in the SLA in terms of density, height, massing, scale, form, siting and materials. II. Proposals for development within or affecting the Special Landscape Area (SLA) will only be supported if the proposal:*

- a. Does not adversely affect the scenic quality of the SLA. Consideration should be taken to protecting important and distinctive views, and protecting remoteness and tranquillity.*
- b. Does not adversely affect opportunities for access and recreation; and*
- c. Protects and enhances landscape quality, sense of place and local distinctiveness, including retention and enhancement of features and habitats of significant landscape, historic, ecological and wildlife importance.”*

With regard to 'Landscape Character Areas', the site is located within the Luddenden Dean Area which is identified as:

*“... a secluded densely wooded side valley of the River Calder, associated with Luddenden Brook which runs north-south from the Dean Head reservoirs at Warley Moor to Luddenden Foot. The LCA is wholly contained within Calderdale District.”*

In terms of the Land use and field patterns

- “• In the north of the LCA, the primary land use is pasture for sheep grazing, arranged into small to medium scale, regular fields bounded by a mixture of gritstone walls and post and wire fencing.*
- Towards Luddenden, fields become larger and interspersed with occasional arable fields.*
- There are also some smallholdings, with horses and pigs being kept.”*

Given the above the paragraph below is also relevant.

*“New development should be designed in a way that is sensitive to its landscape setting, retaining and enhancing the distinctive qualities of the landscape area in which it would be situated. For each Landscape Character Area, planning permission will only be granted if the proposed development would:*

*II. a Make adequate provision as far as is practicable for the retention of features and habitats of significant landscape, historic, geological and wildlife importance;*  
*b. Where possible, enhance the character and qualities of the landscape area through appropriate design and management;*  
*c. Reflect and enhance local distinctiveness and diversity; and*  
*d. Provide appropriate landscape mitigation proportionate in scale and design, and/or suitable off-site enhancements.”*

NPPF Section 15 Conserving and enhancing the natural environment states in paragraph 174:

*“The planning system should contribute to and enhance the natural and local environment by (amongst other things):*

- *Protecting and enhancing valued landscapes ...*

CLP policy BT1 discusses the need for high quality, inclusive design and establishes that developments will ensure high quality, inclusive design and demonstrate a holistic approach to design quality.

Section 12 of the NPPF Achieving well-designed places paragraph 126 states that:

*“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development, creates better places in which to live and work and helps make development acceptable to communities....”*

The development involves the construction of a raised garden area which includes a 2m high stone wall with timber post and rail fence at a height of 1.2m above. However, the development would extend 8.2m by 9.4m and as such would be prominent and quite imposing in its setting both in close up views when seen by users of the PROW 05/225 and in the wider setting from Dean House Lane. Although natural stone has been used it is random coursed and not in keeping with the rest of the row of properties making it more noticeable in the open countryside. The addition of the fence on this elevated terrace further impacts on the open countryside by drawing the eye to this incongruous feature.

It is noted the supporting information does refer to the applicant being willing to change the fence and plant a native hedge to help reduce the impact of the wall. Although this could help reduce the impact it is not considered that it would overcome the inappropriate development and encroachment into the Green Belt.

The proposal is therefore considered to impact on the character and setting of the Special Landscape Area and the design, scale and materials would be out of keeping with the immediate properties.

The proposal would therefore be contrary to CLP policies BT1 and GN4 and sections 12 and 15 of the NPPF.

## **Impact on heritage assets**

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting special regard must be given to the desirability of preserving the building and its setting or any features of special architectural/historic interest.

Decision makers must give importance and weight to the desirability of avoiding any harm to designated heritage assets, to give effect to the LPA's statutory duties under section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted.

The requirements of Section 66 is set out legislation and as such is a legal duty rather than policy requirements that the Council can choose to attach limited weight to. This is reflected in paragraph 199 of the NPPF, which states:

*“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

Also, in considering the impact of development on a heritage asset regard must be had to the significance of that heritage asset, in accordance with paragraph 195 of the NPPF:

*“Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”*

Dean House Farm and 1-3 Dean Houses are grade II listed buildings in close proximity to the proposal. Their significance stems from their vernacular architecture and their setting within the open countryside. Views across the fields towards the listed building are important contributors to their significance.

Paragraph 200 of the NPPF is specific to the notion of harm to a designated heritage asset and states - **“Any** harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require **clear and convincing justification.....”**.

Paragraph 202 of the NPPF is specific to instances where there is considered to be less than substantial harm to the significance of a designated heritage asset, and requires any such harm to be weighed against the public benefits of the proposal. It is considered in this case that such public benefits have not been demonstrated.

CLP policy HE1 discusses the historic environment and in particular states:

- II *“Applications for development which are likely to affect the significance of a heritage asset (whether designated or not), including its setting, will be required to include appropriate understanding of the significance of the heritage assets affected. Where it is necessary to understand the impact of the proposals upon the heritage asset, this should be accompanied*

*by a Heritage Impact Assessment, or in the case of archaeological remains, an appropriate archaeological assessment*

- III. *Development proposals will be expected to conserve heritage assets in a manner appropriate to their significance. Harm to a designated heritage asset (or a Class II archaeological site) will only be permitted where this is outweighed by the public benefits of the proposal. Substantial harm to or the total loss of the significance of the most important designated heritage assets will only be permitted in wholly exceptional circumstances where there is a clearly defined significant public benefit which outweighs the harm.*

As set out above the development involves the construction of a raised garden area which includes a 2m high stone wall with timber post and rail fence at a height of 1.2m above. However, the development would extend 8.2m by 9.4m.

It is considered in this case that there is a level of harm to the settings of the listed buildings, created by the location, siting, scale and design in relation to the nearby listed buildings. Furthermore, the development is visually intrusive and would have a detrimental impact on the settings of the listed buildings albeit limited and less than substantial in the terms of the NPPF. The justification for the development is neither clear nor convincing. Given this the requirements of paragraph 200 of the NPPF are not met.

The proposal would therefore be contrary to CLP policy HE1 and Section 16 of the NPPF.

### **Residential Amenity**

CLP policy BT2 which discusses privacy, daylighting and amenity space and establishes that :

*“Development proposals should not result in a significant adverse impact on the privacy, daylighting and private amenity space of adjacent residents or other occupants and should provide adequate privacy, daylighting and private amenity space for existing and prospective residents and other occupants.”*

Annex 2 sets out distances considered to be acceptable between dwellings.

Given the location of the development there are no concerns with overlooking and the development would not impact on the amenity space of neighbouring properties.

The proposal is therefore considered to satisfy Annex 2 of CLP policy BT2.

### **Highway and Movement**

CLP policy BT4 seeks to secure highways and accesses whose design and layout ensure the safe and free flow of traffic in the interests of highway safety and to provide an attractive environment.

The Assistant Director – Strategic Infrastructure (Highways) has been consulted and has commented:

*“There are no highway objections to this application as submitted which is unlikely to have any negative effect upon vehicle/pedestrian movement or parking within the curtilage or the highway network in general..”*

Although the PROW runs adjacent the site there would be no obstruction to it although the development would have some impact due to the height of it being so close.

The development is considered to satisfy policy BT4 of the CLP.

### **Flooding and Drainage**

Applicants will need to demonstrate that adequate foul and surface water drainage infrastructure is available to serve the proposed development and that ground and surface water is not adversely affected.

CLP policy CC2 discusses flood risk management and includes areas which fall within critical drainage areas.

CLP policy CC3 discusses water resource management

Applicants will need to demonstrate that adequate surface water drainage infrastructure is available to serve the proposed development and that ground and surface water is not adversely affected.

The proposed development would have permeable surfacing and given the limited size and being an extension to an existing dwelling, there is not considered to be any concerns regarding additional surface water run-off.

The proposal would therefore be acceptable to satisfy CLP policies CC2 and CC3 and Section 14 of the NPPF.

### **Wildlife Conservation, Trees and Landscape**

CLP Policy GN3 Natural Environment seeks amongst other things to:

*...achieve better management of Calderdale's natural environment by requiring developments to:*

- a. Conserve and enhance the biodiversity and geological features of the Borough by protecting and improving habitats, species, sites of wildlife and geological value and maximising biodiversity and geodiversity opportunities in and around new developments;..."*

The proposal is in a bat alert area but as the development is retrospective and is for an extension to an existing dwelling with no works proposed to a roof, there would be no harm to any bats in the area.

However, species enhancement should be included as part of the development. Given the lack of information provided regarding this, if approved a condition requiring details of species enhancement measures to be submitted would be included.

Subject to the above condition the proposal accords with policy GN3 of the Calderdale Local Plan and section 15 of the NPPF.

### **Ground Conditions**

CLP Policy MS2 discusses mineral safeguarding areas. The site falls on land identified as a Sandstone Mineral Safeguarding Area and a Surface Coal Mineral Safeguarding Area. However, under the relevant criteria even if it was found that sandstone was present the site is not suitable for the extraction given that it would cause unacceptable impact on neighbouring uses and local amenity.

The proposal is considered to satisfy the objectives set out in CLP policy MS2.

## **The Planning Balance**

The site is in the Green Belt and the Special Landscape Area. The scale of the development to provide the raised terrace would impact on the Streetscene and visual amenity of the open countryside. The development would encroach into the Green Belt and impact on its openness. The use of natural stone is welcomed although the coursing is not in keeping with the existing properties and as such would have a detrimental impact to the visual amenity of the Special Landscape Area and the setting of the listed buildings. The proposal includes permeable surfacing and there would be no overlooking concerns. Although close to the PROW the development would not result in a diversion being required. There are no highway, environmental health or wildlife concerns subject to condition however, the proposal would affect the setting of the nearby listed buildings and although this would be less than substantial harm it is not justified.

The mitigation measures such as changes to fencing, weathering of the wall and native hedge planting identified in the supporting information have been taken into consideration, however these are not considered to outweigh the harm that the development would have on the openness of the Green Belt, impact on the open countryside and Special Landscape Area and also the detrimental impact on the setting of the nearby listed buildings.

For the above reasons the development cannot be supported.

## **CONCLUSION**

**The proposal is not considered to be acceptable. The recommendation to refuse planning permission has been made because the development is not in accordance with policies GB1 (Green Belt), GN4 (Special Landscape Areas), HE1 (Historic Environment) and BT1 (High quality, inclusive design) and paragraphs 126, 138, 147, 148, 149, 150, 174, 200 and 202 of the National Planning Policy Framework, nor have there been any material considerations to indicate that an exception should be made in this case.**

Richard Seaman  
For and on behalf of  
Director of Regeneration and Strategy

Date 13<sup>th</sup> July 2023

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:-

Gillian Boulton (Case Officer) on 01422 392232

Or

Jason Morris (Lead Officer)

## **Reasons**

1. The site lies within the approved Green Belt in the Calderdale Local Plan wherein there is a presumption against development for purposes other than those categories specified in policy GB1 (Green Belt) and paragraphs 149 and 150 of Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework in order to assist in safeguarding the countryside from encroachment; and to retain the openness of the Green Belt. The proposal would not fall under any of the criterion listed within the categories set out in the above paragraphs and as such would be by definition, harmful to the Green Belt. The proposal would encroach into the Green Belt due to its scale and location, creating an irregular edge to the existing row of properties. Furthermore, there would be other harm with regard to the design, materials and scale resulting in harm to the visual amenity of the Special Landscape Area and setting of the listed buildings and no very special circumstances have been established which justify an exception being made. The proposal would therefore be contrary to policy GB1 (Green Belt) of the Calderdale Local Plan and section 13 (Protecting Green Belt Land) of the National Planning Policy Framework.
2. The site lies within a Special Landscape Area on the Replacement Calderdale Unitary Development Plan and the proposal would, in the opinion of the Local Planning Authority, adversely affect the special character and appearance of the area particularly by reason of the design, location scale and materials resulting in an incongruous feature in the open countryside which would be out of character with the existing properties. For these reasons, the proposal would be contrary to Policy GN4 (Special Landscape Areas), and BT1 (High quality, inclusive design) of the Calderdale Local Plan and paragraphs 126 and 174 of the National Planning Policy Framework.
3. The proposed development would have a detrimental impact on the settings of the listed buildings albeit less than substantial in the terms of the National Planning Policy Framework (NPPF). Paragraph 202 of the NPPF is specific to instances where there is considered to be less than substantial harm to the significance of a designated heritage asset, and requires any such harm to be weighed against the public benefits of the proposal. It is considered in this case that such public benefits have not been demonstrated.

Furthermore, the justification for the development is neither clear nor convincing as there is already a garden that serves the property. Given this the requirements of paragraph 200 of the NPPF are not met. The proposal is therefore contrary to Policy HE1 (Historic Environment) of the Calderdale Local Plan and paragraphs 200 and 202 of the NPPF.

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