

**CALDERDALE METROPOLITAN BOROUGH COUNCIL****PLANNING COMMITTEE****WARDS AFFECTED: MORE THAN THREE**

**Date of meeting: 5 December 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

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**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 5 December 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	23/00571/FUL	Land North Of Helm Farm Cottages Helm Lane Triangle Sowerby Bridge Calderdale	Construction of agricultural buildings with associated access track in connection with small holding (Retrospective Application)	Ryburn	5 - 24
14.00	23/00647/FUL	Waxman Group Ltd Grove Mills Elland Lane Elland Calderdale	Proposed extension to an existing warehouse, including alterations to existing car parking, enlargement of existing service yard and new vehicular access.	Elland	25 - 49
14.00	22/00192/FUL	Siddal Wells Cottage Siddal Top Lane Siddal Halifax Calderdale	Demolition of existing buildings and construction of detached dwelling with integral garage; formation of new access	Town	50 - 66

Time Not Before: 14.00 - 01

Application No: **23/00571/FUL**

Ward: **Ryburn**

Area Team: **South Team**

Proposal:

**Construction of agricultural buildings with associated access track in connection with small holding (Retrospective Application)**

Location:

**Land North Of Helm Farm Cottages Helm Lane Triangle Sowerby Bridge Calderdale**



Applicant:

**Darren and Kelly Wetherall**

Recommendation: **REFUSE**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

Consultations:

Highways Section

Environmental Health Services - Pollution Section (E)

**This application has been brought before Planning Committee due the significant number of representations received, in line with the Council's Scheme of Delegation.**

**Councillor Robert Thornber (Ryburn) has called-in this application in the event of a negative recommendation citing Green Belt appropriateness, visual amenity, and highways safety as material planning considerations.**

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

This application is seeking retrospective planning permission for the construction of agricultural buildings with an associated access track in connection with a smallholding. As a retrospective application, the proposed works have already been undertaken and completed. The works include the construction of an agricultural building to be used for housing animals and the storage of equipment associated with the operation of the smallholding to the north of the site, a sheep hut, pigsty, and calf shelter (also for use as a chicken house) centrally within the site, the layout of a new vehicular access track, and the siting of an HGV trailer ('wagon back') to be used as an agricultural store to the south east of the site.

The site is formed from 2 existing enclosed agricultural fields which are both accessible from the existing site access off Helm Lane. The site is bounded by Helm Land and residential dwellings to the west, Birks Lane to the south east, residential dwellings to the south, and by other agricultural fields to the north and east. The site slopes quite significantly from north to south and plateaus slightly in the centre and towards the south western boundary before dropping down to Birks Lane.

The site's red line boundary measures c. 1.77 hectares. Officers note that the submitted application forms details the site area as 1 ha, however this is considered to be inaccurate. The proposal therefore constitutes a major development under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO).

The site lies within the Green Belt and the Blackwood Common and Moorland Fringes / Upland Pastures Landscape Character Areas. The site also lies in the setting of the Grade II Listed Spout Field Farmhouse.

### ***Supporting Information***

In addition to the submitted plans, the following documents have been submitted in support of this application:

- Application Form
- Article 13 Notice and Certificate B
- Design and Access Statement
- Species Enhancement Statement

### **Relevant Planning History**

No relevant planning history.

## **Key Policy Context**

<b>Local Plan Designations / Allocations</b>	Green Belt Blackwood Common Landscape Character Area Moorland Fringes / Upland Pastures Landscape Character Area
<b>Local Plan Policies</b>	<b>SD1</b> Presumption in Favour of Sustainable Development <b>CC1</b> Climate Change <b>CC2</b> Flood Risk Management (Managing Flood Risk in New Development) <b>CC3</b> Water Resource Management <b>HW5</b> Sustainable Local Food Production <b>IM4</b> Sustainable Travel <b>IM5</b> Ensuring Development Supports Sustainable Travel <b>BT1</b> High Quality Inclusive Design <b>BT2</b> Privacy, Daylighting and Amenity Space <b>BT3</b> Landscaping <b>BT4</b> The Design and Layout of Highways and Accesses <b>HE1</b> Historic Environment <b>GB1</b> Development in the Green Belt <b>GN3</b> Natural Environment <b>GN4</b> Landscape <b>EN1</b> Pollution Control <b>MS2</b> Mineral Safeguarding Areas
<b>National Planning Policy Framework Chapters</b>	<b>2</b> Achieving sustainable development <b>4</b> Decision-making <b>6</b> Building a strong, competitive economy <b>8</b> Promoting healthy and safe communities <b>9</b> Promoting sustainable transport <b>11</b> Making efficient use of land <b>12</b> Achieving well-designed places <b>13</b> Protecting Green Belt land <b>14</b> Meeting the challenge of climate change, flooding and coastal change <b>15</b> Conserving and enhancing the natural environment <b>16</b> Conserving and enhancing the historic environment <b>17</b> Facilitating the sustainable use of minerals
<b>Other Relevant Guidance</b>	Calderdale District Landscape Character Assessment and Review of Special Landscape Area Designation (October 2016)
<b>Other Relevant Planning Constraints</b>	Sandstone Mineral Safeguarding Area Groundwater High Vulnerability Area Water Supply Zone (Mixed – Spring & Mains) Area Not Covered by Mains Drainage Smoke Control Area In Setting of Grade II Listed Spout Field Farmhouse

## **Publicity / Representations**

The statutory public consultation period of 21 days took place between 04/07/2023 to 25/07/2023 by neighbour letters.

During the public consultation, a total of 14 representations were made. Of these, 5 were made in support and 9 were received as objections. Officers note that 1 of the objections was withdrawn by the objector. As such, there were 13 representations made, with 5 being made in support and 8 received as objections.

The key points raised in SUPPORT are as follows:

- The new site access would improve the existing.
- Agricultural buildings are of an appropriate size for the plot.
- Proposal would not be used in conjunction with the applicant's tree surgery business.
- Proposal would not harm local landscape character.
- Proposed tree planting would be of benefit to the environment.
- Access to a smallholder for food would support local farmers.
- Off-street car parking is needed to tend to the animals.
- Proposed wagon back would replace a previous one and be used in conjunction with the smallholding.

The key points raised in OBJECTION are as follows:

- Agricultural building is too large for the number of animals it would support.
- Agricultural building harm the local landscape character.
- Site access is poor and unsafe, and gravel will wash into the road during heavy rain.
- New access track is described as a 'public access road' which is not accurate.
- Plans suggest the timber yard would be used as a commercial venture.
- There are discrepancies in proposed floor areas on the submitted plans.
- The existing sewage tank does not accurately reflect what is on-site – this is a water supply.
- Agricultural building would not benefit Swifts and bats as stated.
- Existing and proposed tree planting is inappropriate for its location.
- Helm Lane is not suitable for further intensification.
- The new track does not replace any previous one across the site as there was no previous track.
- Proposal does not need access to 3 car parking spaces.
- Application states that it would 'allow the business to grow'.
- Wagon back is an eyesore and effectively a permanent structure.
- External lighting could be detrimental to bats.

## **Local Members**

Cllr Robert Thornber (Ryburn) – Committee call-in.

*"I email you to request planning application 23/00571/FUL Construction of Agricultural Building, Helm Lane Triangle be determined by the Planning Committee if the recommendation is to refuse.*

*I feel the agricultural building is in keeping with other agricultural buildings in the area, and in my view not much bigger than a large field shelter which would be permitted under current Green Belt policy.*

*Also regarding the access to the field, the entrance is existing, and the limited agricultural traffic from the field poses no more highway issues than what was there before."* (04/08/2023)



## **Consultee Comments**

*Calderdale Council:*

Environmental Services (Pollution Control) – No comments received.

Highways Section – Objects to the proposal.

## **Parish / Town Council Comments**

The site lies in an unparished area.

## **Main Issues**

Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Green Belt
- Climate Change
- Layout, Design and Materials
- Landscape Character
- Heritage
- Residential Amenity
- Pollution Control
- Highways and Car Parking
- Flood Risk and Drainage
- Ecology and Biodiversity
- Ground Conditions

## **Assessment of Proposal**

### **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 most latterly revised on 05 September 2023 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 Development 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 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 ... land designated as Green Belt ... designated heritage assets]* 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 adopted Calderdale Local Plan.

The proposal is for an agricultural use (a smallholding) on agricultural land. It is therefore considered that the principle of development of the proposal is acceptable. Additionally, the proposal is considered to be in accordance with Policy HW5 of the adopted Calderdale Local Plan as an application for sustainable local food production.

### **Green Belt**

The NPPF 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, Chapter 13 of 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.*

### ***Agricultural Buildings***

Policy GB1 pertains to development in the Green Belt and states that:

- I. Within the Green Belt, the construction of new buildings is inappropriate development except in the following circumstances:
  - a. Buildings for agriculture and forestry.

Policy GB1 reflects the requirements of NPPF (Chapter 13) Paragraph 149(a).

The proposal is for the construction of agricultural buildings with an associated access track in connection with a smallholding.

Officers note the applicant's definition of the site as a smallholding. This use was confirmed following a site visit on 12/07/2023. The applicant does note, however, that some wood is stored on-site to later be transported off-site and crafted in a commercial workshop to be worked as part of the applicant's hobby. This is noted, but for the avoidance of doubt, a condition would be secured to prevent any commercial business activities from taking place on this site. This would include the storage of wood to later be used, distributed or sold as part of a business' commercial operations.

Representations and consultee comments regarding the use of the site for operations in association with an existing off-site tree surgery business are noted. Officers note that there are at least c. 10no. 1m x 1m x 1m cages (equating to c. 10m<sup>3</sup> capacity) on-site used for storing firewood sized logs, although not all were in use at the time of the site visit.

Although there is no formal guidance on the amount of wood used by domestic log burners per year, guidance from several commercial fitters suggests that c. 3-4 m<sup>3</sup> of firewood would likely be used per year if the burner were used most evenings between October – April. This could increase to c. 6 m<sup>3</sup> if the burner were to be used more frequently. Officers recognise that this guidance is anecdotal only, but it is considered to be consistent across the industry and, therefore, can be somewhat relied upon in assessing the likely use of the quantum of wood stored on-site.

As the site has the capacity to store c. 10m<sup>3</sup> of wood, this would equate to c. 2-3 years' worth of fuel for a domestic dwelling fitted with a standard log burner. Given how long the process for drying and seasoning firewood takes (c. 6-12 months for softwoods and c. 18 months for hardwoods on average, according to industry advice), Officers consider it unlikely that the quantum of wood stored on-site would be commercially viable and is therefore, in all likelihood, intended for domestic use by the applicant. As such, Officers are content that the proposal would not be used in accordance with the applicant's off-site tree surgery business.

In noting this, Officers consider that the construction of agricultural buildings on this site is appropriate development in the Green Belt.

#### *Access Track*

Policy GB1 also states that:

- II. Other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt:
  - b. Engineering operations.

Policy GB1 reflects the requirements of NPPF (Chapter 13) Paragraph 150(b).

The provision of the new access track is considered to be an engineering operation. The track runs from the site entrance and along the existing field boundary running centrally south west to north east through the site and turns north west at the site's northern boundary up to the agricultural building at the north west corner of the site. The track measures c. 200m in length and is formed of parallel tyre tracks at a single vehicle width. The track is laid with stone and has a central grassed area.

Little justification has been provided for the route of the track and its potential impacts on the openness of the Green Belt. Notwithstanding this, Officers consider that due following the topography and natural contours of the site and the use of the existing field boundary running through the site, the route of the track is appropriate and would not introduce a visually or spatially dominant feature with the site which would materially harm to openness of the Green Belt.

### *Impact on the Green Belt*

Policy GB1 (III) states that 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 will be assessed in further detail later in this report, the siting, materials and design of the proposed agricultural buildings and access track are considered to be commensurate with and proportionate to their use to provide adequate facilities for animal husbandry and welfare. They are also considered to respect the topography of the site and be sited in such a way so as to minimise the potential impacts on the residential amenities of neighbouring occupiers. Officers recognise the representations received regarding the scale of the agricultural building at the north east of the site, but having seen the building in situ on the Officer site visit, consider it to be proportionate to the scale of the site.

### *HGV Trailer ('Wagon Back')*

The proposal also includes the siting of an HGV trailer towards the south east of the site. The siting of an HGV trailer for use as an agricultural store is considered to constitute development which requires planning permission. The applicant has stated that this is a temporary structure used for the storage of hay and straw associated with management of the smallholding, for which some minor earth regrading works have been undertaken to provide a stable platform. The trailer had been brought onto the site to be used as a store for the smallholding and is, therefore, considered to be of agricultural use.

However, the trailer is not considered to fall under the definition of an agricultural 'building' due to its temporariness. Policy GB1 only defines *buildings for agriculture and forestry* as appropriate development in the Green Belt. As such, the siting of the HGV trailer on this site is considered to be inappropriate development in the Green Belt under Policy GB1 and Chapter 13 of the NPPF.

### *Very Special Circumstances*

Policy GB1 (III) states that uses other than those identified [as appropriate development] will constitute inappropriate development and will not be supported except in very special circumstances to be demonstrated by the applicant.

No other information has been received with regard to the HGV trailer other than its use as a storage facility for hay and straw to be used in association with the smallholding. Officers do not consider that the storage of hay and straw constitutes Very Special Circumstances as this could reasonably be accommodated elsewhere on the site within an agricultural building.

Given the inappropriateness of the proposed development in the Green Belt and with no Very Special Circumstances having being demonstrated, the proposal is considered to be contrary to Policy GB1 of the adopted Calderdale Local Plan and NPPF (Chapter 13) Paragraphs 147, 148, and 149.

## **Climate Change**

The Council declared a Climate Change Emergency in 2019. In 2022, the Council published the Calderdale Climate Action Plan 2022-25. This sets out the Council's stated aims and targets to achieve net zero by 2038, with significant progress by 2030.

Policy CC1 requires that proposals should aim to be net zero emitters of greenhouse gases such as carbon dioxide and must demonstrate appropriate mitigation and adaption measures to address the predicted impacts of climate change.

NPPF (Chapter 14) Paragraph 154 requires that new development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change and which can help to reduce greenhouse gas emissions, such as through its location, orientation and design.

No information has been submitted in support of this application in this regard. Officers note that agricultural buildings are generally exempt from the Building Regulations 2010 (as amended) which would usually cover the energy efficiency (amongst other things) of new buildings. Other matters such as sustainable drainage, biodiversity net gain, and access to public transport are considered later in this report.

## **Layout, Design and Materials**

Policy BT1 requires that new developments will ensure high quality, inclusive design and demonstrate a holistic approach to design quality. Proposals should demonstrate their consideration of the aesthetics, function and sustainability over the lifetime of the development.

NPPF (Chapter 12) Paragraph 130 requires that proposals should function well and add to the overall quality of the area, be visually attractive, are sympathetic to local character, establish or maintain a strong sense of place, optimise the potential of the site to accommodate and sustain appropriate development, and create places that are safe, inclusive and accessible.

NPPF (Chapter 12) Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

### *Site Layout*

The site would be accessed centrally via a rearranged existing access point and would lead to the main agricultural building to the north west of the site. The main agricultural building sits at the highest elevation of the site in the corner of the field. Centrally along the northern boundary are the other agricultural buildings, including a sheep pen and pigsty. These are also accessed from the new access track. Further southwards lies the HGV trailer. This is not accessed directly from the access track and has been sited there as there is an existing trailer in the adjacent field on this part of the site boundary.

### *Form, Scale and Massing*

The main agricultural building measures c. 3.6m (h) x c. 14m (w) x c. 10.9m (l) and is roughly 'L'-shaped. Officers note the representation received about the appropriateness of the size and scale of this building. Notwithstanding this, Officers consider the building to be appropriate to fulfil its function, in part to keep horses, and provides the relevant space requirements to do so. The building slopes from front to rear by c. 1m which is visually reduced further by the prevailing site levels.

The proposed sheep hut measures c. 2.25m (h) x c. 3.8m (w) x c. 11.1m (l) and is rectangular. The size and scale of the proposed sheet hut is considered to be acceptable in visual amenity terms and is further considered to be appropriate to fulfil its function.

Dimensions of the HGV trailer have not been provided. It has therefore not been possible for Officers to accurately assess the design and visual implications of the proposal. However, in extrapolating the length of the trailer from the submitted 1:750 scale proposed site plan, Officers consider that it is a 26-tonne trailer at c. 8.45m (l) x c. 2.5m (w) x c. 2.6m (h). The adjacent existing trailer is thought to be a 12-tonne trailer, making the proposed HGV trailer more than double the capacity of the adjacent one, which is already considered to cause a detrimental visual impact, but is not included in the scope of this application. As such, Officers have not considered the lawfulness of the adjacent HGV trailer under this application as it would not be appropriate to do so.

The proposed trailer is considered to be overly large for its positioning on the site. It also sits in a dominant visual position towards the south eastern site boundary with Birks Lane and sits atop the crest of a slope running down to the roadside. Officers note that the applicant has covered the length of the trailer with a green tarpaulin cover, however it is still considered to be unacceptably visually intrusive. It is noted that the HGV trailer is considered to be a temporary structure, so its visual impacts may be slightly mitigated by its temporariness. However, the scope of its temporariness is considered to be relative. As the trailer was brought onto site to serve the smallholding as a hay and straw store, it is considered likely that it would likely be used as a semi-permanent structure, despite its definition as a temporary structure. Officers therefore consider the scale of the HGV trailer to be inappropriate for its siting and visually harmful to its setting.

### *Materials*

The proposed agricultural buildings would be constructed from wood and green metal cladding. The proposal materials are considered to be acceptable in terms of their visual amenity and integration with the wider landscape as recognisable agricultural buildings, similar of which can be found throughout this area of the Borough.

Given the above, Officers consider the proposal to be contrary to Policy BT1 of the adopted Calderdale Local Plan and NPPF (Chapter 12) Paragraphs 130 and 134 due to the significant detrimental visual impacts of the proposal, in particular the HGV trailer.

### **Landscape Character**

The proposal also lies in the Blackwood Common and Moorland Fringes / Upland Pastures Landscape Character Areas. Policy GN4(V) requires that new development should be designed in a way this it is sensitive to its landscape setting. As such, it should seek to enhance the character and qualities of the LCA, reflect local distinctiveness and diversity, provide landscape mitigation appropriate to its scale and design, and make adequate provision for the retention of features and habitats of significant importance.

The surrounding landscape is characterised by rolling, open farmland with sporadic, traditionally built dwellings and barn conversions. Officers also note the presence of a large, modern dwelling of architectural merit to the south east of the site.

As previously noted, Officers consider the proposed agricultural buildings to be appropriate in the landscape and preserve – but does not necessarily enhance – its character. Furthermore, it is considered that they do not detract from the special qualities of the Landscape Character Areas. However, the inclusion of the HGV trailer at the south east of the site is considered to be visually dominant and detrimental within the landscape. This aspect of the proposal is not considered to reflect the local distinctiveness of the open farmland character of the wider area, nor is it considered

to be sensitively sited within the site. The scale of the HGV trailer makes it an unwelcomed visual focal point from the roadside which dominates its immediate area.

Given this, the proposal is considered to be contrary to Policy GN4(V) of the adopted Calderdale Local Plan.

## **Heritage**

Under the provisions of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and NPPF (Chapter 16) Paragraph 200, special attention is to be paid to the desirability of preserving or enhancing the character or appearance and settings of Listed Buildings or any features of special architectural or historic interest, and the character of the Conservation Area.

The requirements of Sections 66 and 72 are set out legislation. As such, they are legal duties which must be adhered to rather than planning policy requirements that the Council can choose to attach weight to.

Policy HE1 requires that proposals should conserve, and where appropriate, enhance, the historic environment especially those elements which make a particularly important contribution to the identity, sense of place and local distinctiveness of Calderdale.

The site lies c. 85m north west of and in the setting of the Grade II Listed Spout Field Farmhouse to the south. Spout Field Farmhouse is a traditional 17<sup>th</sup> Century farmhouse which has a strong and open agricultural setting. No information assessing the potential heritage impacts of the proposal has been submitted, in line with the requirements of NPPF (Chapter 16) Paragraph 194.

As previously noted, the HGV trailer sits in a very prominent position on the crest of a slope above Birks Lane and is clearly viewable from the south and from the designated heritage asset. Officers consider that the siting of the HGV trailer would therefore harm the setting of the Listed Building by introducing a large and incongruous form of development into the setting of the Listed Building that does not conserve and enhance the historic environment. The harm caused by the proposal is considered to be less than substantial.

NPPF (Chapter 16) Paragraph 202 states that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

NPPF (Chapter 16) Paragraph 199 is clear that 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.

As a proposal for agricultural buildings in association with the use of a smallholding, Officers do not consider that there are any public benefits inherent in the proposal which would outweigh the harm caused to the designated heritage asset and the great weight attributed to its conservation.

Given this, the proposal is considered to be contrary to Policy HE1 of the adopted Calderdale Local Plan and NPPF (Chapter 16) Paragraphs 194 and 202. Furthermore, the proposal is considered not to have regard to the provisions of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## **Residential Amenity**

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

NPPF (Chapter 12) Paragraph 130(f) requires that proposals create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The closest neighbouring residential dwelling to the proposed agricultural buildings is located c. 71m to the south. Given this separation distances and the proposed use of the agricultural buildings, the proposal is considered not to cause unacceptable impacts on the residential amenities of neighbouring occupiers in terms of overbearing, overlooking, overshadowing or causing a loss of outlook. As such, the proposal is considered to be in accordance with Policy BT2 of the adopted Calderdale Local Plan and NPPF (Chapter 12) Paragraph 130(f).

## **Pollution Control**

Policy EN1 requires that the Council should seek to reduce the amount of new development that may reasonably be expected to cause pollution or be exposed to it. This includes consideration of light, noise, odour and vibration, environmental and water quality impacts (including ecological impacts), impacts on human health, and impacts on air quality.

### *Noise and Odour*

As the proposal is used for the keeping of animals, there is likely to be some associated noise and odours. Given the size of the smallholding and the site's previous uses to keep horses – as has been highlighted in the public representations – it is considered that good animal welfare and management of the cleanliness of the site would likely reduce the potential for nuisance noise and odour emanating from the site. The site is also surrounding by active farmland, within which some agricultural and animal noise and odours are to be expected. In this regard, and noting that this application is not seeking a change of use of the land, the proposal would not be considered to act as an agent of change.

### *External Lighting*

No external lighting is proposed within the development. To maintain the openness of the Green Belt and visual amenity of the Landscape Character Areas in which the site is located, a condition would be secured to keep the site free from external lighting.

### *Refuse and Waste*

No information has been submitted with regard to refuse and waste storage and collection. Notwithstanding this, Officers consider it likely that waste materials generated in the use of the site as a smallholding would likely be recycled on-site or moved off-site by the applicant for appropriate disposal. The site lies in a Smoke Control Area. As such, there should be no burning of materials on-site, which would be secured via conditions.

Given the above, the proposal is considered to be in accordance with Policy EN1 of the adopted Calderdale Local Plan.



## **Highways and Car Parking**

### *Location Sustainability*

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. The policy further notes that the requirement to include mechanisms to promote sustainable travel in proposals will depend on scale, type and form and will be assessed on a case-by-case basis.

Policy IM5 sets out the Council's position regarding provision of and access to public transport accessibility, mobility and accessibility, and car and cycle parking requirements. The policy states that proposals should be located within 400m walking distance of a regular bus service, or 750m of a railway station. Proposals are also required to provide adequate access means to all modes of transport and into/within the built form for those with disabilities and mobility impairments.

As the proposal is for the erection of infrastructure associated with an agricultural smallholding, it is considered that a more rural location is expected. There is a bus stop with an hourly service to Halifax located c. 500m south of the site, although given the narrowness and national speed limit of the local road network, this is not considered to provide a safe sustainable access option, particularly during the darker winter months and the times of day the site is likely to be access (mornings and evenings).

Officers therefore recognise that the site isn't particularly sustainably located, but further consider that it is appropriately located and would be unlikely to result in unsustainable travel generation given its small-scale use. As such, the proposal is considered to be in broad accordance with Policies IM4 and IM5 of the adopted Calderdale Local Plan.

### *Car Parking*

The Council's car and cycle parking standards are set out in Annex 1 'Car & Bicycle Parking Standards' of the adopted Calderdale Local Plan. No car parking standards are set out for smallholding or agricultural uses.

The applicant has proposed the creation of 3 car parking spaces. These are not set out on the submitted plans, nor is there evidence of formal car parking arrangements on the site. Officers note, following the site visit, that there is likely sufficient space by the main agricultural building to park 3 cars, but that this has not been in any way formalised. Turning space is also to be limited with multi-points turn necessary to enter and exit the car parking area, which is considered to impact on the available space for on-site car parking.

The creation of 3 car parking spaces is considered to be arbitrary and largely inconsequential to the proposal as the site is used as a private smallholding. Given this, the proposal is considered to be in accordance with Policy IM5 of the adopted Calderdale Local Plan.

The applicant has made reference to a future tractor/machinery store on this site. However, this is not considered to form a substantive part of this application and, as such, is not being considered in the assessment of this proposal. Any future building works on the site may require planning permission in their own right, at which time the planning and other materials considerations of the proposal would be assessed.

### *Site Access*

Policy BT4 requires that a proposal's design for and layout of highways and site accesses should ensure the free flow of traffic, allow emergency and refuse vehicle access, provide convenient and

safe pedestrian routes and promote site permeability, take account of the hierarchy of road users, incorporate traffic calming measures where appropriate, provide an attractive environment, and help reduce opportunities for crime.

NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposal makes use of an existing site entrance point on Helm Lane opposite the existing residential dwellings. As part of the proposal, the entranceway has been rearranged, regraded and covered in crushed stone to form a driveable surface.

The Highways Section have reviewed the submitted information and have raised an objection to the proposal on highways safety grounds.

The proposed access track now joins Helm Lane at an oblique angle which only facilitates a right turn out of the site, as a left turn would require multiple forward and reverse movements to egress onto the highway. The oblique angle is further considered to detrimentally impact on the visibility splays achieved, which are not considered to be adequate. Helm Lane is a tightly bound single-track road operating at the national speed limit. Visibility in the vicinity of the site entrance is already heavily constrained by the existing road layout and the lack of visibility achieved at the site entrance is considered to reduce visibility further.

The submitted information details that the applicant turns right out of the site to go home and, therefore, the site access layout is not an issue. Officers do not consider the direction of the applicant's house to be a material consideration in assessing the highways safety impacts of the proposal. Any planning permission would be on the land and not with the applicant. As such, the site access would need to be adequate for any future user of the site and offer a safe means of ingress and egress to and from the site onto the highway.

The access as proposed does not make use of a bound surface, nor does it provide any means of surface water drainage to prevent excess surface water runoff, and debris from the crushed stone track surface, from entering the highway during rainfall events. This would introduce a hazard into the highway which would be unacceptable. The applicant has stated that the soakaways in the field would prevent surface water runoff, and by extension, debris from entering the highway. However, no details to substantiate this have been submitted for consideration.

Officers consider that the proposed site access is inadequate and would cause an unacceptable detrimental impact on highways safety. As such, the proposal is considered to be contrary to Policy BT4 of the adopted Calderdale Local Plan and NPPF (Chapter 9) Paragraph 111.

## **Flood Risk and Drainage**

### *Flood Risk*

Policy CC2 requires that new development should follow a sequential risk based approach and be directed away from Flood Zones 2 and 3 in accordance with the principles of the NPPF.

NPPF (Chapter 14) Paragraph 167 states that when determining applications, local planning authorities should ensure that flood risk is not increased elsewhere. Furthermore, development should only be allowed in areas at risk of flooding where, in the light of assessment against the Sequential and Exception Tests (as applicable), it can be demonstrated that the proposal meets the 5 policy tests set out in Paragraph 167.

The site lies in Flood Zone 1 and measures more than 1ha in size. As such, a Flood Risk Assessment is required under NPPF (Chapter 14) Paragraph 167 Footnote 55. However, no FRA or other flood risk information has been submitted in support of this application. Given this, Officers have been unable to duly assess the proposal in flood risk terms and have been unable to rule out that the proposal would not lead to increased flood risk elsewhere. As has been highlighted in the previous section, the access track does not include drainage adjacent to the highway which could result in localised flooding along Helm Lane from the large area of track introduced onto the site. However, due to a lack of information, this has not been able to be assessed.

The proposal is, therefore, considered to be contrary to Policy CC2 of the adopted Calderdale Local Plan and NPPF (Chapter 14) Paragraph 167, particularly parts (c) and (d) which assess the incorporation of sustainable drainage systems and the safe management of any residual risks respectively.

### *Surface and Foul Water Drainage*

Policy CC3 requires that proposals protect the quality and quantity of water resources, encourage their efficient use and ensure that they are provided where necessary. This includes the provision of suitable surface and foul water drainage systems (including treatment capacity) and ensuring that proposals have an adequate means of water supply.

NPPF (Chapter 14) Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

No foul water drainage is proposed on-site. The applicant has stated that surface water would be collected by an existing tank on-site and then flow into a natural soakaway. Notwithstanding this, Officers note that no substantive details of the size, capacity or condition of the tank have been provided. As such, Officers have been unable to assess the adequacy and functionality of the proposed surface water drainage strategy, particularly given the intensification in the use of the site as a smallholding with additional areas of hardstanding compared to the site's previous use as an empty agricultural field. Furthermore, the lack of surface water drainage installed at the site entrance is also considered to be contrary to adopted policy, as has been previously assessed.

Given the lack of substantive drainage information, the proposal is considered to be contrary to Policy CC3 of the adopted Calderdale Local Plan and NPPF (Chapter 14) Paragraph 169.

### **Ecology and Biodiversity**

Policy BT3 requires that proposals should provide good quality hard and soft landscaping schemes which will form an integral part of the overall design, appropriately integrates the proposal into its surroundings, and enhances local biodiversity.

Policy GN3(g) requires that proposals should design-in wildlife to achieve measurable net gains in biodiversity in accordance with the most up to date national and local guidance.

NPPF (Chapter 15) Paragraph 174(d) requires that proposal should contribute to and enhance the local environment by minimising impacts on and providing net gains for biodiversity.

The applicant has submitted information detailing the provision of bat and Swift (*Apus apus*) boxes on the main agricultural building. Additionally, the applicant has also confirmed that there are nesting Swift within the site at present.

As an application for major development, as defined under the DMPO, it should be supported by the relevant ecological information (such as a Preliminary Ecological Assessment) and a Biodiversity

Net Gain Assessment demonstrating that the proposal would deliver at least 10% measurable Biodiversity Net Gain on-site. No substantive ecological or Biodiversity Net Gain reports and information have been submitted other than brief details of retrospective tree planting and the abovementioned plans.

Officers have, therefore, been unable to assess the potential ecological impacts of the proposal on local flora, fauna, and fungi and whether any mitigation and enhancement measures would be required as part of the proposal. Additionally, due to the lack of baseline BNG information, any potential BNG resulting from the proposal cannot be demonstrably quantified.

### *Arboriculture*

The applicant notes that a variety of trees have been planted on-site, which are considered to form part of this retrospective application as they are intended to be used as a BNG generator and act as a visual buffer for the development. The trees planted include:

- 1000 Hawthorn
- 300+ Beech
- 200+ Hazel and Field Maple
- 25 Spruce
- 50 Holly
- Mixed variety of Silver Birch and Rowan
- 50 Oak
- Mixed variety of Ash and Sycamore
- Multiple small fruit bushes
- 50 Conifers

The trees have already been planted, in part, along the south eastern side of the access track along the existing field boundary route (Hawthorn hedgerow), and to the north west of the site access in a copse arrangement.

Officers consider that such substantial tree planting on this site would not be appropriate as it would introduce intensive, tall, and visually dominant landscaping in an area characterised by open fields with low field boundaries. It is noted that there are some sporadic areas of trees/small scale woodland away from the site. The presence of limited existing tree growth along the south eastern site boundary with Birks Lane is also recognised. However, the nearby areas of trees are considered to have a long-standing amenity value in the landscape, whereas the proposal introduces a large mix of tree species onto a readily visible site with an existing strong agricultural character.

Furthermore, the selection of tree species is also considered to be inappropriate. The evergreen Spruce and Conifer are not native to the landscape in Calderdale and would detract from the amenity value of the site. Similarly, the inclusion of large Oak and Sycamore would come to dominate the proposed copse area and be visually intrusive once mature. A lot of the species selected are more commonly found in woodland areas and their introduction onto the site would be incongruous with the prevailing agricultural landscape character and would further likely harm the openness of the Green Belt given their spatial and visual impacts.

Given this, and the lack of substantive ecological and BNG information submitted, the proposal is considered to be contrary to Policies BT3 and GN3 of the adopted Calderdale Local Plan and Chapter 15 of the NPPF, particularly Paragraph 174.

## **Ground Conditions**

### *Mineral Safeguarding Area*

The site lies in a Sandstone Mineral Safeguarding Area. Policy MS2 requires that all non-minerals development proposals that fall within the MSA will be encouraged to explore the potential for prior extraction. Furthermore, all proposals will be required to carry out a site-specific mineral resource assessment, which shall identify whether a mineral is present, in what quantity, and whether development would sterilise the mineral lying under the site or adjacent to it.

No information has been submitted in this regard. However, Officers note that the proposal would include minor earthworks associated with the construction of the buildings and the laying of the access track. As such, any potential impacts on safeguarded minerals are considered to be negligible to minimal and would be highly unlikely to lead to the sterilisation of any minerals present. Officers also consider the extraction of minerals from the site would be disproportionate to the scale of the proposal. Given this, the proposal is considered to be in accordance with Policy MS2 of the adopted Calderdale Local Plan.

## **Planning Balance and Conclusion**

The proposal is considered to be in accordance with some of the relevant Development Plan policies. However, there are a large number of policy conflicts inherent in the proposal. These cover matters including inappropriate development in the Green Belt, flood risk and drainage, ecology and biodiversity net gain, design and landscaping, landscape character, and highways safety. These matters are largely considered to be fundamental, in-principle matters to the proposal and significantly outweigh the policy and other material considerations of the proposal. Additionally, it is considered that the proposal does not meet the legal duties with regard to development affecting a Listed Building.

## **RECOMMENDATION**

**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 CC2, CC3, BT1, BT3, BT4, HE1, GB1, GN3, and GN4 of the Calderdale Local Plan and National Planning Policy Framework (Chapters 12, 13, 14, 15, 16) Paragraphs 130, 134, 147, 148, 149, 167, 169, 174, 194, and 202, 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: 06 November 2023

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### **Further Information**

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

Richard Riggs (Case Officer) or Jason Morris (Lead Officer)

## **Reasons**

1. The Council adopted the Calderdale Local Plan on 22 March 2023 for all planning purposes. The following policy 1. The Council adopted the Calderdale Local Plan on 22 March 2023 for all planning purposes. The following policy statements are considered relevant to the proposed development:

### Calderdale Local Plan (March 2023)

Policy CC2 - Flood Risk Management (Managing Flood Risk in New Development)

Policy CC3 - Water Resource Management

Policy BT1 - High Quality Inclusive Design

Policy BT3 - Landscaping

Policy BT4 - The Design and Layout of Highways and Accesses

Policy HE1 - Historic Environment

Policy GB1 - Development in the Green Belt

Policy GN3 - Natural Environment

Policy GN4 - Landscape

### National Planning Policy Framework (July 2021)

Chapter 9 - Promoting sustainable transport

Paragraph 111

Chapter 12 - Achieving well-designed places

Paragraph 130

Paragraph 134

Chapter 13 - Protecting Green Belt land

Paragraph 147

Paragraph 148

Paragraph 149

Chapter 14 - Meeting the challenge of climate change, flooding and coastal change

Paragraph 167

Paragraph 169

Chapter 15 - Conserving and enhancing the natural environment

Paragraph 174

Chapter 16 - Conserving and enhancing the historic environment

Paragraph 194

Paragraph 202

### Planning (Listed Buildings and Conservation Areas) Act 1990

### Section 66 - General duty as respects listed buildings in exercise of planning functions

The proposed development is considered not to be in accordance with the requirements of the Development Plan, and it has been concluded that there are no material considerations which would justify or outweigh the non-compliance with the relevant policies of the adopted Development Plan.

2. The siting of an HGV trailer on the site does not constitute the provision of an agricultural building due to its temporariness and is, therefore, considered to be inappropriate development in the Green Belt for which no Very Special Circumstances have been demonstrated. The proposal is contrary to Policy GB1 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 13) Paragraphs 147, 148, and 149.
3. The proposal fails to provide a safe and usable means of highways access into the site to and from Helm Lane. The proposed access would result in a reduction in the existing, limited visibility splays, provide a right turn only when exiting the site, and provide no drainage measures at the access to prevent surface water and debris runoff into the highway. The proposal would result in an unacceptable impact on highways safety and is contrary to Policy BT4 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 9) Paragraph 111.
4. The proposal would cause less than substantial harm to the setting of the Grade II Listed Spout Field Farmhouse by way of the incongruous visual impacts of the HVG trailer. No public benefits are considered to exist which outweigh the great weight attributed to the conservation of the designated heritage asset. The proposal does not preserve or enhance the historic environment and is contrary to Policy HE1 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 16) Paragraphs 194 and 202. The proposal also fails to have regard for Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
5. The applicant has failed to demonstrate that the proposal would not lead to an increase flood risk on or off the site as a Flood Risk Assessment has not been submitted. Furthermore, no substantive drainage information has been provided to demonstrate that the reuse of the existing tank on-site would be a suitable means of drainage attenuation, or that the positioning, capacity, and maintenance of the existing natural soakaway would be sufficient to deal with the drainage requirements of the proposal. The proposal is contrary to Policies CC2 and CC3 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 14) Paragraphs 167 and 169.
6. The siting of an HGV trailer on this site would not reflect the distinctiveness of the open farmland character of the local area and would harm the character of the Blackwood Common Landscape and Moorland Fringes / Upland Pastures Landscape Character Areas by way of its large scale and visual incongruity. Furthermore, the proposal does not provide landscape mitigation appropriate to its scale and design. The proposal is not sensitively sited within the landscape and does not enhance the character and qualities of the Landscape Character Areas. The proposal is contrary to Policies BT1 and GN4 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 12) Paragraphs 130 and 134.
7. The proposed tree planting is considered to be visually and spatially harmful to the character of the surrounding landscaping and to the openness of the Green Belt. A large copse of large trees at the site entrance would be visually dominating over a rolling agricultural landscape for which no justification has been submitted. Furthermore, the species selection of the trees is considered to be inappropriate for the site and the surrounding area, with large woodland species and evergreen pines being visually and spatially over-dominant and detrimental to the ecological make-up of the site. The proposal is contrary to Policies GB1, BT3, and GN4 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapters 12, 13, and 15) Paragraphs 130 and 174.
8. The applicant has failed to demonstrate that the proposal would not harm the ecology of the site or that it would achieve at least 10% measurable on-site Biodiversity Net Gain. No ecological information has been submitted to demonstrate that the proposed bat and Swift

boxes would provide requisite ecological mitigation or enhancement and, pursuant to Reason for Refusal 7 of this Decision Notice, the proposed tree planting is considered to be ecologically inappropriate for the site. The proposal is contrary to Policy GN3 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 15) Paragraph 174.

9. There are no material considerations advanced in favour of the development that would outweigh the identified conflicts with the relevant policies of the adopted Development Plan.
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Time Not Before: 14.00 - 02

Application No: **23/00647/FUL**

Ward: **Elland**

Area Team: **South Team**

Proposal:

**Proposed extension to an existing warehouse, including alterations to existing car parking, enlargement of existing service yard and new vehicular access.**

Location:

**Waxman Group Ltd Grove Mills Elland Lane Elland Calderdale  
HX5 9DZ**



Applicant:

**Waxman Group Holdings Ltd**

Recommendation: **PERMIT**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

Consultations:

Highways Section

Environmental Health Services - Pollution Section (E)

Business And Economy

The Coal Authority

Countryside Services (E)

Flood Risk Manager

Tree Officer

Highways Section

**This application has been brought before Planning Committee due the significant number of representations received, in line with the Council's Scheme of Delegation.**

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

This application is seeking full planning permission for the extension of an existing warehouse to form a new storage area, including alterations to existing car parking, enlargement of existing service yard and creation of a new vehicular access from Elland Ln.

The site's red line boundary area measures c. 0.15 hectares and is formed from an area of greenspace and sits within the blue line boundary area (land in the same ownership) of the wider site of the existing business. The site is fenced off from public access by a c. 2.4m boundary chain link fence. 16 car parking spaces used by local residents are currently laid out to the southern edge of Elland Ln and fall within the site's red line boundary. The site is bounded to the north and west by existing residential dwellings, to the east by an embankment onto the A629, and to the south by existing industrial and commercial uses.

The site lies in a Primary Employment Area, the Settled Valleys and Calder (Todmorden Hebden Bridge Mytholmroyd) Landscape Character Areas, a Coal Authority Development Referral Area, and in a Critical Drainage Area.

### ***Supporting Information***

In addition to the submitted plans, the following documents have been submitted in support of this application:

- Application Form
- Design and Access Statement
- Arboricultural Report and Impact Assessment
- Flood Risk Assessment and Drainage Strategy
- Preliminary Geo-Environmental Report
- Noise Impact Assessment
- Bat Roost Potential Assessment Form

### **Relevant Planning History**

*Application:* 77/00356/FUL

*Description:* Erection of a garage and workshop

*Decision:* Approved 25/03/1977

*Application:* 78/00901

*Description:* Erection of extension to warehouse

*Decision:* Approved 21/06/1978

*Application:* 80/01343/FUL

*Description:* Erection of security fence and gates to perimeter of works area

*Decision:* Approved 26/08/1980

*Application:* 85/00445/FUL

*Description:* Formation of modular security cage for L.P.G. cylinders and concrete base

*Decision:* Approved 10/05/1985

*Application:* 94/00971/FUL  
*Description:* New car parking bay and entrance improvements  
*Decision:* Approved 28/06/1994

*Application:* 94/01437/OUT  
*Description:* Erection of industrial unit to include warehousing and associated offices (Outline)  
*Decision:* Approved 04/10/1994

*Application:* 97/01799/FUL  
*Description:* 2 factory/warehouse units with ancillary offices, parking, fencing and alteration to existing access (B1, B2 and B8 Use Classes)  
*Decision:* Approved 28/05/1998

*Application:* 00/01342/COU  
*Description:* Change of use from ceramic tile wholesale to mixed ceramic tile wholesale and retail  
*Decision:* Approved 11/01/2001

*Application:* 02/00136/FUL  
*Description:* Change of use of adjacent warehouse to ceramic tile wholesale and retail use and formation of new entrance door  
*Decision:* Approved 04/10/2002

*Application:* 02/00495/FUL  
*Description:* 2.4m high fence (Retrospective)  
*Decision:* Approved 15/05/2002

*Application:* 02/00723/FUL  
*Description:* Single storey extension to factory  
*Decision:* Approved 05/09/2002

*Application:* 02/01390/OUT  
*Description:* Construction of warehouse (Outline)  
*Decision:* Approved 29/11/2002

*Application:* 03/01991/FUL  
*Description:* New warehouse  
*Decision:* Approved 18/02/2004

*Application:* 09/00817/VAR  
*Description:* Proposed variation of condition one of planning permission 02/00136/FUL – Hours of opening to now include Sundays and Bank Holiday opening between the hours of 10.00 and 18.00  
*Decision:* Approved 30/07/2009

*Application:* 12/00321/FUL  
*Description:* Two storey extension to form entrance and stairs, new overhead link bridge and replacement glazing to office (part retrospective)  
*Decision:* Approved 24/05/2012

## **Key Policy Context**

<b>Local Plan Designations / Allocations</b>	Primary Employment Area Settled Valleys Landscape Character Area Calder (Todmorden Hebden Bridge Mytholmroyd) Landscape Character Area
<b>Local Plan Policies</b>	<b>SD1</b> Presumption in Favour of Sustainable Development <b>CC1</b> Climate Change <b>CC2</b> Flood Risk Management (Managing Flood Risk in New Development) <b>CC3</b> Water Resource Management <b>HW1</b> Health Impacts of Development <b>IM4</b> Sustainable Travel <b>IM5</b> Ensuring Development Supports Sustainable Travel <b>EE1</b> Safeguarding Existing Employment Areas, Land and Premises <b>BT1</b> High Quality Inclusive Design <b>BT2</b> Privacy, Daylighting and Amenity Space <b>BT3</b> Landscaping <b>BT4</b> The Design and Layout of Highways and Accesses <b>GN3</b> Natural Environment <b>GN4</b> Landscape <b>GN5</b> Trees <b>EN1</b> Pollution Control <b>EN3</b> Environmental Protection <b>MS2</b> Mineral Safeguarding Areas
<b>National Planning Policy Framework Chapters</b>	<b>2</b> Achieving sustainable development <b>4</b> Decision-making <b>6</b> Building a strong, competitive economy <b>8</b> Promoting healthy and safe communities <b>9</b> Promoting sustainable transport <b>11</b> Making efficient use of land <b>12</b> Achieving well-designed places <b>14</b> Meeting the challenge of climate change, flooding and coastal change <b>15</b> Conserving and enhancing the natural environment <b>17</b> Facilitating the sustainable use of minerals
<b>Other Relevant Guidance</b>	Calderdale District Landscape Character Assessment and Review of Special Landscape Area Designation (October 2016)
<b>Other Relevant Planning Constraints</b>	Bat Alert Area Critical Drainage Area Surface Coal Mineral Safeguarding Area Coal Authority Development Referral Area Potentially Contaminated Land

## **Publicity / Representations**

The statutory public consultation period of 21 days took place between 07/08/2023 to 28/08/2023 by site notice, press advert, and neighbour letters.

During the public consultation, a total of 34 representations were received. Officers note that one member of the public submitted an additional addendum comment, whilst another submitted an additional 5 addendum comments. Multiple comments made by the same, or on behalf of, the same person are considered to account for 1 combined representation as they mainly pertain to the same material considerations as made in the initial comments.

As such, it is considered that 28 representations were received during the consultation period. Of these, 27 were received as objections, and 1 as a general comment.

Under Paragraph 034 of the National Planning Policy Guidance (NPPG) on Consultation and Pre-Decision Matters, dated 23/07/2019 (Reference ID: 15-026-20190722), the Council has, at its discretion, accepted public comments made after the close of the consultation period for due consideration throughout the determination process.

The key points raised in OBJECTION are as follows:

- There are existing highways safety and parking issues in the area resulting from the use of the site which the proposal would exacerbate.
- Proposal would lead to an increase in traffic and HGV movements.
- Plans would reduce the availability of residents' car parking spaces.
- Concerns over safety and fire risk of Electric Vehicle Charging Points.
- There would be noise impacts from the proposal on neighbours.
- Accuracy and methodologies of submitted reports is questioned.
- Proposal would result in a loss of privacy, daylight, and other amenity concerns for neighbours.
- Proposed rooflights would cause increased light pollution.
- Rainwater runoff from the site already overflows onto the highway.
- Proposal is contrary to Development Plan policies in terms of amenity, highways safety, and car parking.
- Plans do not sufficiently show site levels and amenity impacts on neighbouring properties.
- Proposed boundary tree planting would be insufficient.
- Proposed tree planting would block sunlight to neighbours.
- Development would be out of character with the area.
- Scale of the proposal would be overbearing.
- Removal of trees from the site would be of detriment.
- A Bat Survey should be undertaken.

The key points raised as COMMENT are as follows:

- Slow the Flow advocating for natural flood management and sustainable drainage.

Some of the matters raised are not considered to constitute material considerations for planning purposes. These include:

- Devaluation of nearby properties.
- Lack of applicant consultation with neighbours.
- Residents aren't able to park outside their own homes.
- Loss of a view.
- LPA has not invited evidence from local residents.
- Proposal is not on Green Belt land.

## **Consultee Comments**

*Calderdale Council:*

Business and Economy – Supports the proposal.

Countryside Services – No objections.

Environmental Services (Pollution Control) – No objections subject to conditions.

Highways Section – No objections subject to conditions.

Lead Local Flood Authority – No objections subject to conditions.

Tree Officer – No objections.

*External Consultees:*

Coal Authority – No objections.

## **Parish / Town Council Comments**

The site lies in an unparished area.

## **Main Issues**

Taking into consideration the site allocations and constraints, the main issues for consideration as part of the appraisal of the application are:

- Principle of Development
- Climate Change
- Layout and Design
- Landscape Character
- Residential Amenity
- Pollution Control
- Highways Safety and Parking
- Flood Risk and Drainage
- Trees, Ecology and Biodiversity
- Ground Conditions
- Other Material Considerations

## **Assessment of Proposal**

### **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 most latterly revised on 05 September 2023 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 Development 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 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:
  - iii. 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 ... designated heritage assets]* or
  - iv. 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 adopted Calderdale Local Plan.

#### *Primary Employment Area*

Policy EE1(II) states that proposals to develop or redevelop land / premises for employment uses or employment complementary uses within the Primary Employment Areas will be supported providing that there is no unacceptable impact on the operation of other established employment uses, there is no unacceptable impact on local amenity, and the employment complementary use provides a small scale ancillary service to meet the day to day needs of local employees, and is consistent with other Plan policies.

NPPF (Chapter 6) Paragraph 81 states that planning decisions should help to create conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The site lies within a Primary Employment Area. Calderdale Business and Economy have reviewed the submitted information and support the proposal as it would *create additional space for this growing business [and] the land is allocated as a Primary Employment Area in a mostly business area*. Furthermore, Officers consider that due to the location of the proposal on an existing industrial / commercial site, it would not have a detrimental impact on the operations of other established employment uses in the area and would be ancillary to the existing business use. The potential impacts of the proposal on the amenities of neighbouring occupiers shall be assessed later in this report. However, in brief conclusion, the proposal is not expected to result in significant or unacceptable impacts on local amenity. Given this, the proposal is considered to be in accordance with Policy EE1 of the adopted Calderdale Local Plan and NPPF (Chapter 6) Paragraph 81.

#### **Climate Change**

The Council declared a Climate Change Emergency in 2019. In 2022, the Council published the Calderdale Climate Action Plan 2022-25. This sets out the Council's stated aims and targets to achieve net zero by 2038, with significant progress by 2030.

Policy CC1 requires that proposals should aim to be net zero emitters of greenhouse gases such as carbon dioxide and must demonstrate appropriate mitigation and adaption measures to address the predicted impacts of climate change.

NPPF (Chapter 14) Paragraph 154 requires that new development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change and which can help to reduce greenhouse gas emissions, such as through its location, orientation and design.

Limited information has been submitted in support of this application in this regard, noting the sustainability of the selected materials and working practices to be put in place to minimise the generation of waste during construction and operation of the proposal. Furthermore, Officers note that the proposal would be required to comply with Part L (Conservation of fuel and power, Volume 2: Buildings other than dwellings) of The Buildings Regulations 2010 (as amended) in terms of energy efficiency and minimising the use of natural resources. Other matters such as sustainable drainage, biodiversity net gain, and access to public transport are considered elsewhere within this report.

## **Layout and Design**

### *Effective Use of Land*

NPPF (Chapter 11) Paragraph 119 states that planning decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 120(c) states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate contaminated land.

As the proposal is located within an existing industrial and commercial site, it is considered to be using suitable brownfield land for this type and use of development. As such, in line with NPPF (Chapter 11) Paragraph 120(c), Officers must give this consideration substantial weight in the planning balance. Furthermore, Officers consider that in using this site, the applicant is providing sufficient room for the expansion of the existing business within an existing industrial complex, and creating the conditions in which the business can invest in its future growth. Given this, the proposal is considered to make an efficient use of land and is, therefore, in accordance with NPPF (Chapter 11) Paragraphs 119 and 120(c).

### *Form, Scale and Massing*

Policy BT1 requires that new developments will ensure high quality, inclusive design and demonstrate a holistic approach to design quality. Proposals should demonstrate their consideration of the aesthetics, function and sustainability over the lifetime of the development.

NPPF (Chapter 12) Paragraph 130 requires that proposals should function well and add to the overall quality of the area, be visually attractive, are sympathetic to local character, establish or maintain a strong sense of place, optimise the potential of the site to accommodate and sustain appropriate development, and create places that are safe, inclusive and accessible.

NPPF (Chapter 12) Paragraph 134 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.



The proposed building would measure c. 43.2m (l) x c. 24.25m (w) x c. 10.75m (h) at its extremities. The building would be formed of a single rectangular frame with a single-level roof span. It would incorporate a relatively small protruding entrance area on its eastern elevation. No elevational glazing is proposed, with natural light being able to access the proposal via the 13 rooflights proposed along the span of the roof. The pitched roof would be shallow at 6° and would be less than that of the existing building for which the proposal would act as an extension. On the western side of the site, the proposal would not sit flush with the existing building and would leave a c. 25m gap between its western elevation and the western edge of the existing building. The proposed building would be lower than the host building by c. 3.3m. The proposed building would have a Gross Internal Area of c. 936 sqm. Sub-division of the internal area of the proposal would be minimal as it would be used as an open-plan storage area.

Officers acknowledge that the proposed building would represent a large block of development sitting forward of the main built form massing within the site. It is also considered that the single-level roof span across c. 43m would be likely to draw the eye to the monotony of the building's proposed form. To account for this, the applicant would introduce a segmented materials palette – the details of which shall be assessed in the following section of this report. However, in brief, the proposal external materials are considered to sufficiently break up the massing of the building, particularly its northern elevation, with the vertical emphasis of the main body of the external cladding reducing the horizontal dominance of the building's span.

Furthermore, Officers recognise that the proposal would be a functional industrial building and its design is considered to reflect this use. Accommodations to the proposal's external appearance have also been made to reduce its likely impacts on the amenities of neighbouring occupiers. Whilst some areas of glazing would break up the massing of the elevations further, it would likely introduce elements of overlooking neighbouring dwellings. Officers consider that the design of the proposal has been reached as a compromise of providing sufficient visual amenity to the site, whilst recognising the proposal's industrial use as well as other being mindful of other constraints which limit its overall design. In this regard, Officers consider the design and external appearance of the proposal to be acceptable when taking the abovementioned factors into consideration.

### *Materials*

The materials proposed to be used on the external elevations of the building would be a mix of:

- Stone-faced cavity wall at the base of the walls (c. 1-1.5m tall)
- Vertical profile cladding in RAL 240-80-05 (Albatross Grey)
- Horizontal profile cladding in RAL 7000 (Alaska Grey) on the uppermost section of the walls
- Doors in RAL 180-40-05 (Merlin Grey)
- 13 rooflights installed in the roof
- Pitched roof (6°) in RAL 180-40-05 (Merlin Grey)
- Trims and flashings (including fascias) in RAL 7016 (Anthracite Grey)

Officers consider the selection of proposed materials to be in-keeping with the vernacular of the wider site and other industrial and commercial units in the area. The changes in materials and use of different shades of grey would break up the massing of the elevations, and the introduction of a stone-face base to the building would add some visual differentiation between the different elevational sections. The proposed external materials are considered to be appropriate in design and visual amenity terms. Officers note that whilst a lot of the materials have been submitted in detail, the type and finish of the facing stonework have not been provided at this stage. As such, the full details of all the external materials to be used shall be secured via conditions.

Overall, the design and visual amenity of the proposal is considered to be in accordance with Policy BT1 of the adopted Calderdale Local Plan and NPPF (Chapter 12) Paragraph 130.

### *Signage*

No external signage has been proposed as part of this application. This is welcomed as any signage on the proposal's northern elevation could have an impact on the visual amenity of the site. Should any proposals for external signage be forthcoming at a later date, an appropriate advertisements consent would be required.

### *Landscaping*

Policy BT3 requires that proposals should provide good quality hard and soft landscaping schemes which will form an integral part of the overall design, appropriately integrates the proposal into its surroundings, and enhances local biodiversity.

NPPF (Chapter 12) Paragraph 131 states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning decisions should ensure that new streets are tree-lined and that opportunities are taken to incorporate trees elsewhere in developments.

The applicant has submitted an indicative landscaping plan in support of this application. This details the provision of a new sloped embankment from the foot of the proposed building to the green space to the north. It further details the indicative locations of new and replacement tree planting within the site, as well as areas of mown grass and native bulb planting. A 2.4m high chain link security fence to match the existing one would also be installed around the amended northern site boundary and car parking areas.

Officers note that the proposed landscaping strategy is indicative only at this stage. Notwithstanding this, the layout of the proposed landscaping is considered to be largely acceptable in principle, as it would provide sufficient replacement tree planting for those lost to facilitate the proposal – this impact of the proposal on the existing trees shall be assessed further later in this report – and introduced new native species planting onto the site. However, Officers have concerns over the siting of the proposed trees on the western boundary with the adjacent dwellings.

Whilst the proposed trees may somewhat visually screen the proposal from neighbouring dwellings, they are also likely to reduce the amount of natural light into these dwellings, particularly given the topography of the site's western boundary edge. It is also recognised that any new tree planting would take a number of years to mature for the screening benefits to be realised. Officers consider that the planting of an instant hedgerow along the western boundary may be more appropriate in this instance. This should be studded with new tree planting in carefully selected locations along the western boundary so as not to impinge on the availability of natural light within the adjacent dwellings and still add amenity value to the site. A full hard and soft landscaping strategy and 10-year management and maintenance plan shall be secured via conditions.

Given this, the proposal is considered to be in accordance with Policy BT3 of the adopted Calderdale Local Plan and NPPF (Chapter 12) Paragraphs 130 and 131.

### **Landscape Character**

The proposal also lies in the Settled Valleys and Calder (Todmorden Hebden Bridge Mytholmroyd) Landscape Character Areas. Policy GN4(V) requires that new development should be designed in a way this it is sensitive to its landscape setting. As such, it should seek to enhance the character and qualities of the LCA, reflect local distinctiveness and diversity, provide landscape mitigation

appropriate to its scale and design, and make adequate provision for the retention of features and habitats of significant importance.

The proposal lies in a dense mixed-use area which has historically been used for commercial / industrial businesses and residential dwellings, with other local ancillary uses such as pubs and allotments. The area around the site is characterised by terraced housing and large industrial units of varying ages and operational uses. The layout of the surrounding area is relatively ad hoc with the mixed uses intertwined through the street scene.

Historical mapping data shows that there has been some form of industrial operations on this site – in the form of Grove Mills – since at least the mid-19<sup>th</sup> Century (1850s). It is acknowledged that the proposal would introduce a new built form onto the north of the site which appears to have been kept mostly clear of buildings over the past c. 150 years. This is with the exception of a row of development, likely to have been dwellings, along the southern side of Elland Ln where the current off-street car parking provision is located along the site's northern boundary. The mapping data shows the presence of this development until at least the mid-20<sup>th</sup> Century (1940s). Officers further note that the area around the site has also seen an increase in post-war commercial and industrial development which has changed the surrounding landscape character.

Officers consider that the erection of a new industrial unit extension onto this site would not be out of keeping with the prevailing landscape character. Although it would occupy more of the site than the previous development on its northern boundary, the site has historically been more developed than it currently is and had a much further forward building line along Elland Ln than is proposed.

In this regard, the proposal is not considered to harm the character or special qualities of the LCAs in which it sits and would, therefore, not have an unacceptable impact on the landscape character of the surrounding area. Given this, the proposal is considered to be in accordance with Policy GN4 of the adopted Calderdale Local Plan.

### **Residential Amenity**

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

NPPF (Chapter 12) Paragraph 130(f) requires that proposals create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

#### *Separation distances*

The proposal would be located c. 24m from the nearest dwelling to the north and c. 22m from the closest dwelling to the west. The eaves of the proposed building would sit c. 12.5m above street level with Elland Ln and c. 11.5m above street level at the west of the site. At its foremost, the northern elevation would visually overlap the curtilage of the closest dwelling to the west of the site by c. 3.5m.

#### *Overbearing and Loss of Outlook*

It is important to note that the loss of a view is not a material planning consideration and is different from a proposal causing a loss of outlook. Although there is no set definition of an *outlook*, Officers consider that this incorporates the use of land and a proposal, and the sense of how a space is experienced.

Given the separation distances achieved to the dwellings to the north of the site, the proposal is not considered to be significantly detrimental to the residential amenities of neighbouring occupiers in terms of overbearing. Officers acknowledge that the visual impact of the site's built form being brought closer to the site's northern boundary would alter the outlook from these dwellings. However, the proposal is considered to represent an extension of the industrial / commercial use of the site at an appropriate scale which would not be significantly over-dominant or foreclosing on the outlook of the adjacent dwellings.

Similarly, the separation distances achieved by the proposal from adjacent dwellings to the west of the site are considered to be acceptable in spatial and planning policy terms. However, it is noted that the site's western boundary would require some regrading works to allow for the construction of the proposed access track. This would put the site's finished ground level c. 1.7m above that of the adjacent dwelling's curtilage. Officers consider that the regrading of the western boundary combined with the c. 10.75m tall elevation and the existing, taller building to the south of the nearest dwelling, some detrimental impacts in terms of overbearing are likely.

It is considered that some of the overbearing aspects of the proposal could be mitigated by on-site landscaping – such as overlooking by motorists accessing the site. Furthermore, additional hedge and tree planting along the site's western boundary would likely break up some of the visual impact of the proposed building and soften its visual outline. However, these mitigation measures are not considered to remove all of the likely overbearing impacts of the proposal on the nearest neighbouring dwelling. They are, however, considered to reduce the likely overbearing impacts to a level which would not be considered significant, particularly given the existing context and relationship between the site and the neighbouring dwelling. Therefore, whilst some detrimental impacts will likely exist on the residential amenities of neighbouring occupiers in terms of overbearing and loss of outlook, they are not considered to be significant in planning policy terms under Policy BT2.

### *Overshadowing*

The proposal sits to the south of the residential dwellings opposite on the northern side of Elland Ln. Given the separation distances achieved, the proposal would allow c. 26.8m from its eaves for natural light to be received at the front windows of the dwellings opposite. The shallow pitch of the roof of the proposed building is also noted and considered to remove unnecessary obstruction for natural light to pass. Given this, Officers do not expect the proposal to significantly detrimentally affect the residential amenities of neighbouring occupiers to the north of the site in terms of overshadowing.

The proposal sits to the east of the residential dwellings on its western boundary. Given the separation distances achieved, the proposal would allow c. 24.8m from its eaves for natural light to be received at the windows of the dwellings. Notwithstanding this, it is further considered that as the proposed building would sit on a roughly south western – north eastern axis and would visually cover c. 3.5m of the nearest western dwelling's (purportedly a single aspect dwelling) frontage when viewed from the east, some detrimental impacts in terms of overshadowing could occur during the mornings. It is also noted that the proposal would be unlikely to overshadow the adjacent dwelling from the south given the proposed site layout.

As a result of the assessment above, Officers consider that some limited impacts in terms of overshadowing at the adjacent dwelling to the west of the site may occur as a result of the proposal. However, any potential detrimental impacts are not considered to be significant as the dwelling would still receive sunlight from the south as it currently does, and any resultant impacts would be time-limited to the mornings.

## *Overlooking*

The proposal does not include the provision of glazing on the elevations of the proposed building. Officers note the provision of an access door on the western elevation. However, this is offset from the outdoor amenity areas of the adjacent dwellings to the west of the site and would be screened by the proposed landscaping. As such, the proposal is not expected to result in significantly detrimental impacts on the residential amenities of neighbouring occupiers in terms of overlooking.

Overall, given the above assessment, the proposal is considered to be in broad accordance with Policy BT2 of the adopted Calderdale Local Plan and NPPF (Chapter 12) Paragraph 130(f).

## **Pollution Control**

Policy HW1 requires that developments should contribute to reducing the causes of ill health, improve health, and reduce health inequalities in part by providing a healthy living environment.

Policy EN1 requires that the Council should seek to reduce the amount of new development that may reasonably be expected to cause pollution or be exposed to it. This includes consideration of light, noise, odour and vibration, environmental and water quality impacts (including ecological impacts), impacts on human health, and impacts on air quality.

NPPF (Chapter 15) Paragraph 185 states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

## *Noise*

The applicant has submitted a Noise Impact Assessment in support of this application. This details that noise assessment of the operational use of the proposal for servicing and deliveries during the site's operational hours, and the use of the car parking spaces, would fall below the maximum acceptable levels, as set out in the relevant British Standards.

Environmental Services (Pollution Control) have reviewed the submitted information and have raised no objections to the methodology or findings of the NIA. Some conditions have been requested to restrict the hours of use of the proposal to minimise noise levels associated with the operation of the site. These are considered in the *Hours of Use* section later in this report.

Officers note the representations received querying the methodology of the submitted NIA. However, given that technical consultees have raised no objections in this regard, Officers have no reason to consider that the noise assessments undertaken by the applicant are not fit for purpose or that the findings are inaccurate. The submitted NIA is, therefore, considered to be acceptable.

## *External Lighting*

No information regarding the provision of external lighting has been submitted at this stage. Officers consider that an extensive external lighting scheme would be inappropriate but recognise that the provision of security lighting is likely to be required. As such, conditions shall be secured for full details of an external lighting strategy for security lighting only to minimise light spill from the site and the potential impacts on the amenities of neighbouring occupiers.

## *Refuse and Waste*

No information has been submitted regarding the storage and collection of refuse and waste from the proposal. Notwithstanding this, Officers note that the site forms part of a larger, existing industrial / commercial development and would likely make use of the existing refuse and waste storage and collection facilities used at the site.

Given the above, Officers consider the proposal to be in accordance with Policies HW1 and EN1 of the adopted Calderdale Local Plan and NPPF (Chapter 15) Paragraph 185.

## **Highways Safety and Parking**

### *Location Sustainability*

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. The policy further notes that the requirement to include mechanisms to promote sustainable travel in proposals will depend on scale, type and form and will be assessed on a case-by-case basis.

Policy IM5 sets out the Council's position regarding provision of and access to public transport accessibility, mobility and accessibility, and car and cycle parking requirements. The policy states that proposals should be located within 400m walking distance of a regular bus service, or 750m of a railway station. Proposals are also required to provide adequate access means to all modes of transport and into/within the built form for those with disabilities and mobility impairments.

The closest bus stops to the site lie c. 257m walking distance to the west and c. 213m to the east. These stops offer regular services to Halifax, Huddersfield, Elland, and Brighouse. The site also lies within an existing and historic mixed-use area of residential and commercial / industrial uses with access to local shops in walking distance from the site.

Officers consider that the site is sustainably located and would not require the use of private vehicles as the primary means of transport to access the site for on-site personnel. As such, the proposal is considered to be in accordance with Policies IM4 and IM5 of the adopted Calderdale Local Plan in this regard.

### *Car Parking*

The Council's car and cycle parking standards are set out in Annex 1 'Car & Bicycle Parking Standards' of the adopted Calderdale Local Plan. For Class Use B8 storage and distribution uses, 1 car parking space per 250 sqm should be provided, with 1 motorcycle parking space per 500 sqm. The required quantum of secure cycle parking facilities for B8 uses is not defined under Annex 1.

### *On-Site Parking*

The Council's parking standards would require the provision of 6 additional car parking spaces and 3 cycle storage spaces based on the site area of the proposal. However, no provision of any additional on-site car or cycle parking has been identified.

Policy IM5(III)(a) states that in determining the appropriate level of parking for any given development, consideration will be given to the accessibility of the site, the type, mix and use of development, opportunities to use alternative modes of transport and relevant parking or traffic management strategies.

As assessed in the previous section of this report, the proposal is considered to be sustainably located with good access to public transport offering frequent services to local and regional centres. Furthermore, the proposal would not increase the number of on-site personnel as a direct result of the provision of the proposed building. Given this, Officers consider that the lack of proposed car parking within the proposal is not a matter which would attract negative weight in the planning balance, as the requirement for additional car parking spaces is not clearly demonstrable. Officers also consider that for the quantum of additional on-site car parking which would be required, the blue line area of the site would be capable of providing if provision were to be demonstrably required. Similarly, the provision of 3 on-site cycle storage spaces is likely to be adequately fulfilled within the existing on-site infrastructure.

Given this, Officers consider that the proposal is in accordance with Policy IM5(III)(a) of the adopted Calderdale Local Plan with regards to on-site parking provision.

### *Residents' Parking*

There are currently 16 off-street car parking spaces provided to the north of the site, within its red line boundary, which are used by neighbouring occupiers. 12 of these were provided under planning permission 94/00971/FUL. 12 spaces were also approved under planning permission 94/01437/OUT. Planning permission 97/01799/FUL further includes the provision of off-street car parking spaces, although the approved quantum is unknown. Condition 7 of 97/01799/FUL states that:

**13.** *No development shall take place until the off-street residents parking spaces have been provided, surfaced, sealed and marked out in accordance with the permitted plans and the car park shall thereafter be retained for that purposes, for the use of residents of adjacent properties.*

**Reason:** *To ensure that provision for vehicular parking clear of the highway is available to adjacent residents, in the interests of highway safety.*

Given the lack of information available under planning permission 97/01799/FUL, Officers are unclear where the additional existing 4 car parking spaces came from and whether they received the benefit of formal planning permission. Although they are considered likely to have been in-situ for over 10 years and, as such, are considered to benefit from deemed permission.

Notwithstanding this, as Officers cannot be certain that all 16 existing spaces benefitted from planning permission under 97/01799/FUL. As such, only 12 of the existing spaces are considered to fall under the requirements of Condition 7 and safeguarded be for residents' parking as it cannot be demonstrated otherwise. Therefore, 4 of the existing spaces – although used for resident's parking – are not considered to be restricted by the requirements of Condition 7 of 97/01799/FUL in planning terms and would be for general public use (notwithstanding any private agreements which are not considered to be material planning considerations and have not been demonstrated as part of this application).

The proposal would amend the layout of the existing off-street parking spaces and reduce the quantum provided by 2 to 14; with 10 to be accessed via a new junction on Elland Ln and 4 remaining in-situ in their current locations to the east of the parking area. In doing so, Officers consider that the proposal would retain the 12 residents' car parking spaces which have the benefit of a demonstrable historic planning permission and are maintained by Condition 7 of 97/01799/FUL, plus an additional 2 spaces with deemed permission.

Notwithstanding the previous planning conditions for the existing car parking spaces to be retained for residents' parking, Officers do not consider that such a condition would now meet the relevant tests, as set out under Paragraph 003 (Reference ID: 21a-003-20190723, dated 23/07/2019) of the

National Planning Practice Guidance (NPPG) for the use of planning conditions. As such, it is not proposed for residents' parking in the proposed off-street parking spaces to be secured via conditions under this application.

Officers consider that any proposed condition to restrict the use of the car parking spaces to occupiers of Nos. 1 – 33 Elland Ln would not be enforceable under the relevant planning regulations and would not be strictly necessary, as there would likely be sufficient on-street car parking in the wider vicinity of the site which would be unlikely to have an unacceptable impact on highways safety given the quantum of cars which would be displaced. Officers recognise that this would likely be inconvenient for neighbouring occupiers, but further acknowledge that there are no rights for residential occupiers to park in front of their homes.

The applicant is advised that as the car parking spaces would be within their red line boundary and on private land, the provision of residents' car parking would be a private matter. Therefore, private agreements with neighbouring occupiers would be a more appropriate means of securing the parking spaces for use by the neighbouring dwellings only. However, as now, it is noted that there would be no statutory capabilities for the Council to enforce against non-compliance with any private agreements.

Officers consider the loss of 2 of the 'general public' spaces with deemed permission to be regrettable, but further note that the loss would not likely cause an unacceptable impact on highways safety as on-street car parking is available in the area. Further to this, Officers note that Nos. 1 to 33 Elland Ln constitute 12 individual dwellinghouses, 1 of which has access to its own off-street car parking space. Although the Council's car parking standards require 1.5 spaces for residential developments without access to off-street parking, this application does not propose any residential development and would maintain the existing quantum of safeguarded residents' car parking spaces.

Given this, the proposal is not considered to result in unacceptable impacts on highways safety resulting from the loss of 2 of the existing car parking spaces and would maintain adequate residents' parking provision as it would not result in the reduction of the existing residents' off-site car parking provision on Elland Ln. As such, the proposal is considered to be in accordance with Policy IM5 and NPPF (Chapter 9) Paragraph 111 in this regard.

### *Site Access*

Policy BT4 requires that a proposal's design for and layout of highways and site accesses should ensure the free flow of traffic, allow emergency and refuse vehicle access, provide convenient and safe pedestrian routes and promote site permeability, take account of the hierarchy of road users, incorporate traffic calming measures where appropriate, provide an attractive environment, and help reduce opportunities for crime.

NPPF (Chapter 9) Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposal would make 3 main amendments to the existing site access arrangements. The first of these would be to move the existing access gate at the east of the site further south into the site and construct an additional yard area to serve the proposed building. This would allow space for an HGV to fit fully within the existing site accessway without impinging on the free flow of traffic on Elland Lane. The second would be the rearranged car parking area to the north of the site which would introduce a new junction onto Elland Ln for the limited use of a small car park area. The third aspect of the proposed site access strategy would be to introduce a new car and van access point to the west of the site from Elland Ln to an existing yard area within the site. The track would run to the rear



of the existing dwellings to the west of the site. The proposal would also re-introduce clearly demarked pedestrian footways onto the southern side of Elland Ln.

The Highways Section has reviewed the submitted information and raise no objections to the proposed access strategy. Officers further consider that the proposed access strategy would not lead to an unacceptable impact on highways safety and would likely improve the existing situation on Elland Ln with the provision of an HGV-sized accessway at the east of the site. Additionally, suitable visibility splays would be achieved from the proposed highway accesses and, given the cul-de-sac nature of Elland Ln, additional site accesses are not considered to impinge on the free flow of traffic in the area.

Given this, the proposal is considered to be in accordance with Policy BT4 of the adopted Calderdale Local Plan and NPPF (Chapter 9) Paragraph 111.

### *Traffic Generation*

Officers recognise the concerns many local residents have raised about existing issues with HGV overnight parking on Elland Ln. The applicant has stated that HGV traffic arriving at the site outside of business hours should not happen, but that it is outside of their control. Officers further note that this matter is considered to fall outside the definition of a material planning consideration in this instance as a pre-existing concern for which the Local Planning Authority is unable to insist on the rectification of under this proposal.

The applicant has submitted anecdotal information that the proposal would likely reduce the need for the current levels of HGVs entering the site due to the increase levels of on-site storage achieved by the proposal. Whilst this has not been quantified as part of this application, Officers consider it unlikely that this application would lead to an increase in HGV traffic using the site as a direct result of the proposal for a new storage area.

## **Flood Risk and Drainage**

### *Flood Risk*

Policy CC2 requires that new development should follow a sequential risk based approach and be directed away from Flood Zones 2 and 3 in accordance with the principles of the NPPF. The site lies in Flood Zone 1, is less than 1ha in size, and does not introduce a more vulnerable use onto the site. As such, a Flood Risk Assessment would not usually be required.

Notwithstanding this, however, the site also lies in a Critical Drainage Area. Part (III) of Policy CC2 requires developments located within a Critical Drainage Area to submit a Site-Specific Flood Risk Assessment to demonstrate that that the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

NPPF (Chapter 14) Paragraph 167 states that when determining applications, local planning authorities should ensure that flood risk is not increased elsewhere. Footnote 55 requires that development on land which has been identified by the Environment Agency as having critical drainage problems should provide a site-specific Flood Risk Assessment.

The applicant has submitted a Flood Risk Assessment and Drainage Strategy in support of this application. This details that the proposal is classified as a 'less vulnerable' use and is considered to be at very low risk of fluvial flooding (flooding from rivers), very low risk of pluvial flooding (flooding from surface water), and at low risk from groundwater flooding. Environment Agency flood risk mapping data has been included within the FRA. The report further states that the site would be at

low risk from reservoir flooding and that there are no known public sewers within the site. Notwithstanding this, the FRA recommends an existing drainage survey is undertaken to map the sewerage network on the site.

The Lead Local Flood Authority have reviewed the submitted information and raise no objections to the methodology or findings of the FRA. As such, Officers consider that the proposal would not likely be at unacceptable risk of flooding, nor would it increase the risk of flooding elsewhere. The proposal is, therefore, considered to be in accordance with Policy CC2 of the adopted Calderdale Local Plan and NPPF (Chapter 14) Paragraph 167.

### *Surface and Foul Water Drainage*

Policy CC3 requires that proposals protect the quality and quantity of water resources, encourage their efficient use and ensure that they are provided where necessary. This includes the provision of suitable surface and foul water drainage systems (including treatment capacity) and ensuring that proposals have an adequate means of water supply.

No additional foul water drainage facilities are being proposed as part of this application. On-site personnel would use the existing facilities elsewhere within the building.

An indicative surface water drainage strategy has been submitted in support of this application. This details that surface water would be attenuated in a c. 101 sqm tank underneath the proposed access road at the west of the site. This size of tank would be required to accommodate the required discharge rate, including the 30% brownfield runoff rate reduction and the 1 in 100 year + 45% climate change flood scenario. A surface water drainage maintenance strategy has also been submitted detailing the roles and responsibilities of the applicant in maintaining the on-site surface water drainage strategy.

Officers note that no infiltration testing has been undertaken at this stage and that a CCTV survey of the existing drainage network is also required. The LLFA further notes that the proposed drainage strategy would need to take the proposed car parking areas and access road into consideration. In doing so, the LLFA have requested pre-commencement conditions for a survey of the existing site drainage and full details of a surface and foul water drainage strategy. Officers consider that the principle of the proposed drainage strategy is acceptable and that full details can reasonably be secured via the relevant pre-commencement conditions.

As such, the proposal is considered to be in accordance with Policy CC3 of the adopted Calderdale Local Plan and Chapter 14 of the NPPF.

## **Ecology and Biodiversity**

### *Protected Species and Biodiversity*

Policy GN3(g) requires that proposals should design-in wildlife to achieve measurable net gains in biodiversity in accordance with the most up to date national and local guidance.

NPPF (Chapter 15) Paragraph 174(d) requires that proposal should contribute to and enhance the local environment by minimising impacts on and providing net gains for biodiversity.

The site lies within a Bat Alert Area. As such, the applicant has submitted a Bat Roost Potential Assessment Form, including photos of the existing buildings and trees, in support of this application. This concludes that no further bat surveys would be required as the site and existing buildings are unlikely to have the potential to host roosting bats.

Countryside Services have received the submitted information and consider that it demonstrates that there is a low chance of an adverse impact on roosting bats, such that no further bat surveys are required.

Officers note that no information has been submitted with regards to the provision of Biodiversity Net Gain on this site, with the exception of an indicative landscaping strategy. Notwithstanding this, Officers consider that the proposal would be readily capable of delivering a sufficient quantum of on-site BNG through the provision of ecological enhancements, such as the provision of bat boxes and native species planting, given the site's likely low ecological baseline as an existing industrial site with limited mown grassland. A scheme of ecological enhancements would be secured via conditions to ensure the provision of on-site BNG and to mitigate any unforeseen impacts on protected species. Given this, Officers consider the proposal to be in accordance with Policy GN3 of the adopted Calderdale Local Plan and NPPF (Chapter 15) Paragraph 174.

### *Trees*

Policy GN5 states that proposals will be positively considered where there is no unacceptable loss of, or damage to, existing trees during or as a result of development, where any trees not to be retained are replaced within a well-designed landscaping scheme, and where any existing trees worthy of retention are sympathetically incorporated into the overall design of the proposal.

The applicant has submitted an Arboricultural Report and Impact Assessment in support of this application. This details that there are 10 Category B trees and 1 Category C tree on-site. The Category B trees would be removed to facilitate the proposal. As assessed earlier in this report, replacement tree planting as part of a landscaping strategy is proposed.

The Council's Tree Officer has reviewed the submitted information and considers that whilst the trees earmarked for removal do hold some amenity value, they are still young. It is further noted that future growth of these trees could impact on the adjacent building. The Tree Officer notes that the removed trees would be replaced within a landscaping strategy and raises no objections to the proposal.

Officers consider that the loss of the existing would not be of significant amenity or ecological detriment to the site and that suitable replacement tree planting could be accommodated as part of a well-designed landscaping strategy, to be secured via conditions. As such, the proposal is considered to be in accordance with Policy GN5 of the adopted Calderdale Local Plan.

## **Ground Conditions**

### *Mineral Safeguarding*

The site lies within a Surface Coal Mineral Safeguarding Area. Policy MS2 requires that all non-minerals development proposals that fall within the MSA will be encouraged to explore the potential for prior extraction. Furthermore, all proposals will be required to carry out a site-specific mineral resource assessment, which shall identify whether a mineral is present, in what quantity, and whether development would sterilise the mineral lying under the site or adjacent to it.

No information has been submitted in this regard. However, Officers note that the proposal would make use of land within an existing industrial / commercial site and would occupy a relatively small footprint area in comparison to the wider site. As such, the proposal is not considered to cause any additional impacts on any underlying mineral resource and would not lead to the sterilisation of any mineral present. Furthermore, the extraction of any underlying minerals from the site is considered to be disproportionate to the proposal. Given this, the proposal is considered to be in accordance with Policy MS2 of the adopted Calderdale Local Plan.

## *Contaminated Land and Coal Mining*

Policy EN3 requires that proposals do not give rise to and are not exposed to environmental hazards, including contaminated land. Part II of Policy EN3 requires that applications should be supported by relevant investigations and propose appropriate mitigation measures, where required, to reduce unacceptable risks to an acceptable level.

NPPF (Chapter 15) Paragraph 183 states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. The requirements of Paragraph 183 further set out the need for a remediation framework for contaminated land. Paragraph 184 is explicit that responsibility for securing a safe development where a site is affected by contamination of land stability issues rests with the developer and/or landowner.

The site lies in an area of potentially contaminated land due to its previous industrial land uses and within a Coal Authority Development Referral Area due to the likely risks of historic mine workings on or in the vicinity of the site.

The applicant has submitted a Preliminary Geo-Environmental Appraisal Report in support of this application. This details that the Pot Coal Seam runs below the site. The seam is recorded as being small and shallow and is not suggestive of more significant mine workings in the area. No mine entries or audits are recorded in the vicinity of the site. There are a number of nearby of potential contamination receptors in the vicinity of the site, including historic landfills and surface workings and cuttings relating to former reservoirs. The report recommends additional intrusive ground investigations to be undertaken prior to construction of the proposal.

Environmental Services (Pollution Control) have reviewed the submitted information and raise no objections to the methodology or findings or the contaminated land assessment. Pre-commencement conditions have been requested, in line with the report's recommendations, for Phase 2 intrusive ground investigations, remediation and validation. Officers agree with this approach and shall secure the necessary works via the relevant conditions.

The Coal Authority have also reviewed the submitted information and note that the area where the built development would be falls outside the defined Development High Risk Area. As such, the Coal Authority considers that a Coal Mining Risk Assessment is not necessary in this instance and raise no objections to the proposal.

Given the above, the proposal is considered to be in accordance with Policy EN3 of the adopted Calderdale Local Plan and NPPF (Chapter 15) Paragraph 183.

## **Other Material Considerations**

### *Employment Opportunities*

The proposal would not directly result in additional employment opportunities being created at the site. As such, Officers are unable to consider the provision of local employment opportunities as a material consideration in support of this application. It is noted that there would likely be some small-scale, short-term material benefits associated with the proposal in terms of employment generation in the construction and supply chain during construction. However, this has not been quantified as part of the proposal and is therefore considered to carry only limited weight in the planning balance.

### *Hours of Use*

No substantive information detailing the proposed hours of use of the proposal have been submitted at this stage. Environmental Services (Pollution Control) have requested a condition to limit the hours of use of the proposal to between 07:30 to 19:00 daily. A further condition has been requested to limit vehicle movements and loading / unloading operations on the site to between the same hours. Officers consider the proposed conditions to be appropriate to limit the generation of noise and other pollutants on the site and to limit the amenity impacts on neighbouring occupiers. Officers shall therefore secure the necessary conditions.

### *Construction Matters*

Officers consider that the construction phase of development would be likely to have a temporary impact on the residential amenities of neighbouring occupiers from factors such as noise, vibration, and dust. As such, it is considered reasonable to secure the details of the construction phase of development via a Construction Method Statement. This should detail the mitigation measures to be put in place to reduce the amenity impacts of construction of neighbouring occupiers. A CMS shall be secured via a pre-commencement condition.

### *Pre-Commencement Conditions*

The recommendation proposes pre-commencement planning conditions. Therefore, in accordance with Section 100ZA of the Town and Country Planning Act 1990 and The Town and Country Planning (Pre-commencement Conditions) Regulations 2018, the Local Planning Authority served notice upon the applicant to seek agreement to the imposition of such conditions. The applicant agreed in writing on 13/11/2023 to the imposition of the relevant pre-commencement conditions.

## **RECOMMENDATION**

**The proposal is considered to be acceptable subject to the conditions specified below. The recommendation to GRANT planning permission has been made because the development is in accordance with the policies and proposals in the Calderdale Local 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: 13 November 2023

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### **Further Information**

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

Richard Riggs (Case Officer) or Jason Morris (Lead Officer)

## **Conditions**

1. The development hereby permitted shall be carried out in full accordance with the approved plans detailed on this decision notice, except as may be required by specific condition(s).
2. There shall be no commencement of the development hereby permitted until a survey of existing site drainage, including any culverts/watercourses that may cross the site, showing connectivity and condition, has first been submitted to and approved in writing by the Local Planning Authority.  
The approved findings shall form the basis on the proposed drainage strategy pursuant to Condition 3 of this Decision Notice.
3. There shall be no commencement of the development hereby approved 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 first been submitted to and approved in writing by the Local Planning Authority.  
The development shall be carried out in full accordance with the approved details prior to the first use of the development and be retained and maintained as such thereafter.
4. Where further intrusive investigation is recommended in the Preliminary Risk Assessment, there shall be no commencement of the development hereby permitted until a Phase II Intrusive Site Investigation Report has first been submitted to and approved in writing by the Local Planning Authority.
5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report, there shall be no commencement of the development hereby permitted until a Remediation Strategy has first been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall be carried out and completed in full accordance with the Remediation Strategy so approved.  
In the event of contamination not previously considered being identified, there shall be no further development undertaken until the Local Planning Authority has first been notified of the extent of that unforeseen contamination and of the further works necessary to complete the remediation of the site.
6. Following completion of all remediation measures a Validation Report shall be submitted to the Local Planning Authority.  
Unless otherwise agreed in writing with the Local Planning Authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have first been completed in full accordance with the approved Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.
7. There shall be no commencement of the development hereby permitted until a Construction Method Statement has first been submitted to and approved in writing by the Local Planning Authority.  
The scheme shall include:
  - o Contact details for site manager to whom complaints and comments can be addressed;
  - o Loading and unloading of plant and materials;
  - o Storage of plant and materials used in constructing the development;

- o The erection and retention of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- o Measures to control the emission of dust and dirt during construction;
- o Measures to control the emission of noise through such means as toolbox talks and radio volumes;
- o A scheme for recycling/disposing of waste resulting from demolition and construction works; and,
- o Delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

8. Notwithstanding the submitted information, there shall be no development above slab level until full details of all external materials to be used in the development have first been submitted to and approved in writing by the Local Planning Authority.  
The development shall be carried out in strict accordance with the approved details prior to the first use of the development and shall be retained and maintained as such thereafter.
9. There shall be no development above slab level until full details of a scheme of ecological enhancement measures to secure at least 10% on-site Biodiversity Net Gain has first been submitted to and approved in writing by the Local Planning Authority.  
The development shall be carried out in full accordance with the approved details prior to the first use of the development and shall be retained and maintained as such thereafter.
10. Prior to installation, full details of an external lighting strategy for security lighting only shall first be submitted to and approved in writing by the Local Planning Authority.  
Such details shall include specifications for the lighting proposed, its location and position within the site, height and levels of illumination proposed. The details shall also specify that any external lighting includes cowling, or other similar device, to ensure that the lighting only illuminates the site directly.  
The development shall be carried out in full accordance with the approved details prior to the first use of the development and shall be retained as such thereafter.  
No other external lighting except for security lighting shall be used on the site.
11. Notwithstanding the submitted information, prior to installation, full details of a hard and soft landscaping strategy and management plan shall first be submitted to and approved in writing by the Local Planning Authority.  
The scheme shall include the following information:
  - o Measures for ground preparation and cultivation;
  - o Earthworks and ground profiling, including proposed finish levels and contours;
  - o Precise location and canopy spread of all existing trees;
  - o Locations, numbers, and species of new trees to be planted, and details of protection measures during establishment;
  - o Details of all planting to include native species, seed mixes, locations, sizes, planting density and number, and protection measures during establishment;
  - o Provision of an instant native species hedgerow along the site's western boundary;
  - o Specification of materials for all hard surfaces;
  - o Details of all new boundary treatments, including materials and colour finishes of fences, walls and railings;
  - o An implementation programme setting out timescales for the completion of all landscape works; and,

- o A Landscape Management Plan, stating management responsibilities and a schedule of retention and monitoring operations for all landscaped areas for a minimum of 10 years following implementation.

The development shall be carried out in full accordance with the approved details prior to the first use of the development and shall be retained and maintained as such thereafter.

12. Prior to first use of the development hereby permitted, the off-street car parking facilities shown on the approved plans shall have first been constructed and surfaced using permeable paved surfacing materials where any surface water shall be directed to sustainable drainage outlets or porous surfaces within the curtilage of the development.  
The approved car parking facilities shall thereafter be retained and maintained as such for the lifetime of the development.
13. The use of the premises shall be restricted to the hours of:
  - o 07:30 to 19:00 on any day.
14. There shall be no movement of goods vehicles onto or off the site, or loading or unloading of goods vehicles on the site, or outside movement of forklift trucks on the site, except between the hours of 07:30 and 19:00 on any day.

### **Reasons**

1. For the avoidance of doubt and to ensure that the development is built to an appropriate quality and standard of design, in accordance with Policy BT1 of the adopted Calderdale Local Plan and Chapter 12 of the National Planning Policy Framework.
2. To ensure the existing on-site drainage infrastructure is capable of being integrated into an acceptable drainage strategy, in accordance with Policies CC2 and CC3 of the adopted Calderdale Local Plan and Chapter 14 of the National Planning Policy Framework.
3. In the interest of providing acceptable surface and foul water drainage strategies, in accordance with Policies CC2 and CC3 of the adopted Calderdale Local Plan and Chapter 14 of the National Planning Policy Framework.
4. To ensure that the site is safe for development and future occupiers from environmental hazards and contaminated land, in accordance with Policy EN3 of the adopted Calderdale Local Plan and Chapter 15 of the National Planning Policy Framework.
5. To ensure that the site is safe for development and future occupiers from environmental hazards and contaminated land, in accordance with Policy EN3 of the adopted Calderdale Local Plan and Chapter 15 of the National Planning Policy Framework.
6. To ensure that the site is safe for development and future occupiers from environmental hazards and contaminated land, in accordance with Policy EN3 of the adopted Calderdale Local Plan and Chapter 15 of the National Planning Policy Framework.
7. In the interests of protecting the amenities of neighbouring occupiers, in accordance with Policies BT2 and EN1 of the adopted Calderdale Local Plan.
8. To ensure that the development is built to an appropriate quality and standard of design, in accordance with Policies BT1 and GN4 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 12) Paragraph 130.



9. To provide ecological enhancement measure in the interest of achieving Biodiversity Net Gain on-site, in accordance with Policy GN3 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 15) Paragraph 174.
  10. In the interests of protecting and preserving the residential amenities of neighbouring occupiers and not detrimentally impacting on local nocturnal wildlife, in accordance with Policies BT2 and GN3 of the adopted Calderdale Local Plan and Chapters 12 and 15 of the National Planning Policy Framework, particularly Paragraphs 130(f) and 174.
  11. To provide and maintain visual and ecological enhancements to the site, in accordance with Policies BT1, BT3, and GN3 of the adopted Calderdale Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.
  12. In the interests of maintaining access to off-street car parking on Elland Lane and ensuring the free flow of traffic to protect highways safety, in accordance with Policy IM5 of the adopted Calderdale Local Plan.
  13. In the interests of maintaining acceptable levels of residential amenities for neighbouring occupiers and to reduce the impacts of any noise generated from the development, in accordance with Policies BT2, HW1, and EN1 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 15) Paragraph 185.
  14. In the interests of maintaining acceptable levels of residential amenities for neighbouring occupiers and to reduce the impacts of any noise generated from the development, in accordance with Policies BT2, HW1, and EN1 of the adopted Calderdale Local Plan and National Planning Policy Framework (Chapter 15) Paragraph 185.
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Time Not Before: 14.00 - 03

Application No: **22/00192/FUL**

Ward: **Town**

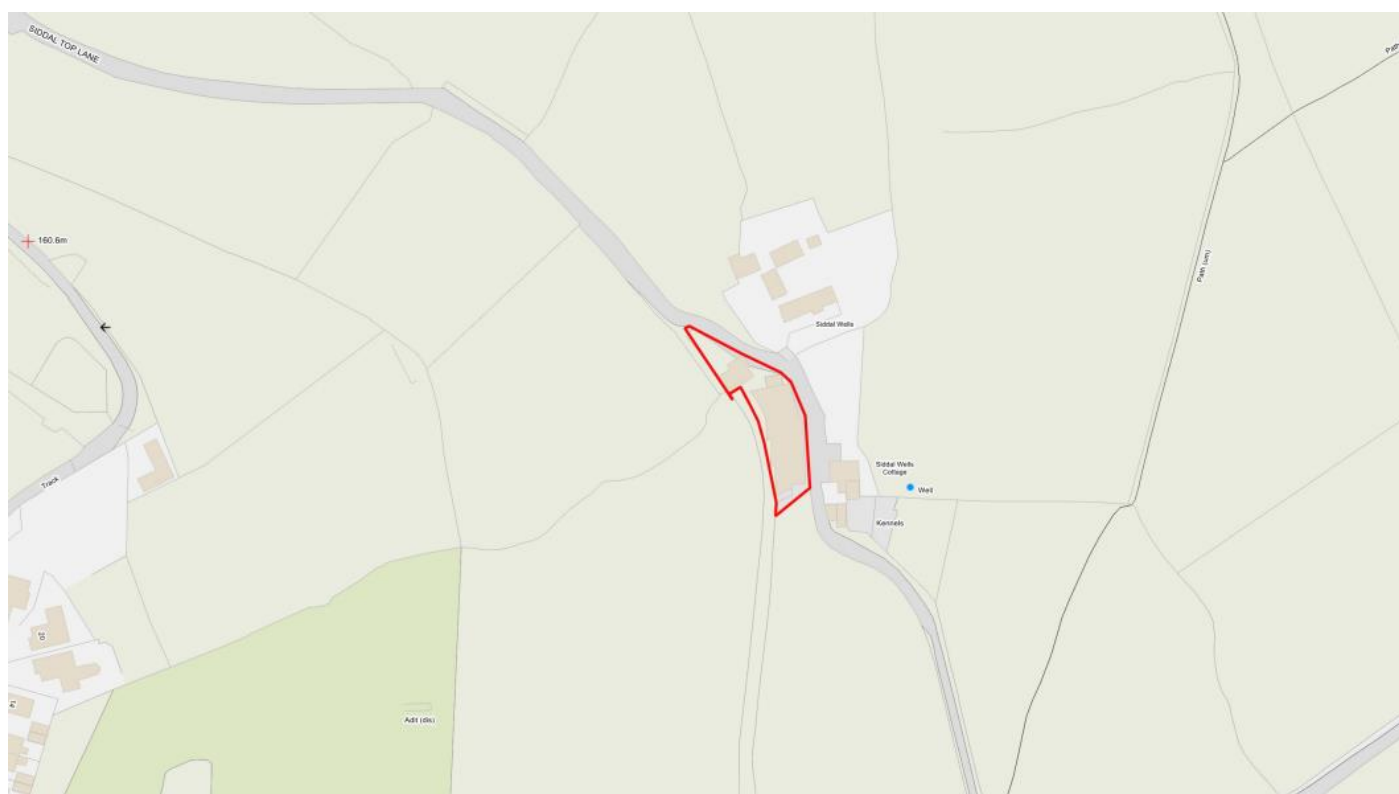
Area Team: **South Team**

Proposal:

**Demolition of existing buildings and construction of detached dwelling with integral garage; formation of new access**

Location:

**Siddal Wells Cottage Siddal Top Lane Siddal Halifax Calderdale  
HX3 9TU**



Applicant:

**Mrs V Jackson**

Recommendation: **PERMIT**

Parish Council Representations:	N/A
Representations:	No
Departure from Development Plan:	No

Consultations:

Highways Section  
Environmental Health Services - Pollution Section (E)  
The Coal Authority  
Countryside Services (E)  
Highways Section  
Environmental Health Services - Pollution Section (E)  
The Coal Authority

## **Description of Site and Proposal**

The application site extends to 0.07 hectares, situated to the west side of Siddal Top Lane. Opposite the site is Siddal Top Cottage whilst a further residential property at Siddal Wells lies to the north-west. The land is presently occupied by a series of 10 single storey outbuildings of varying size and condition associated with the Cottage. Situated on a reasonably steep hillside, the buildings mainly lie at a lower level to the road with elevated views from the site towards Halifax and beyond.

Access to the site is achieved from Siddal Top Lane. It is understood that Siddal Top Lane is a public highway (designated a By-Way Open to All Traffic) and maintained by the Council. It extends from West Lane/Change Lane at its southern end, through to Phoebe Lane in the opposite direction. The condition of the lane is variable. It is narrow and mostly single width. The southern section to Siddal Top Cottage and Siddal Wells and beyond is surfaced whilst towards the northern end, it is largely unsurfaced. At each end it is identified as being unsuitable for motor vehicles. A footpath (Halifax 714) runs along the southern boundary of the application site, presently partly obscured by a structure that extends over it. This connects to Halifax 716, which provides a route to Siddal via Rosemary Lane.

The application seeks the demolition of all the redundant outbuildings and the construction of a new 3-bedroom dwelling on three levels, being part single storey and part-two-storey, constructed in a linear form across the site from north to south. It would have a reasonably contemporary appearance, with a mono-pitch roof and large sections of glazing to the front elevation. Access would be via Siddal Top Lane from West Lane. The dwelling would include a garage and driveway area, which would be most directly visible from the road with the remainder of the dwelling sitting mostly below it. A small garden area and courtyard spaces would be provided within the scheme.

**The application is brought to the Planning Committee because an objection has been received from a statutory consultee (Highways Development Management).**

## **Relevant Planning History**

17/00821/FUL: Proposed dwelling on site of redundant agricultural building.  
Withdrawn: 27 September 2017

## **Key Policy Context:**

The most relevant planning policies are set out below:

<b>Calderdale Local Plan (CLP)</b>	Green Belt Landscape Character Area – Calder Settled Valleys and Thornton Queensbury Urban Fringe Critical Drainage Area Sandstone Mineral Safeguarding
<b>Relevant CLP Policies</b>	GB1 Development in the Green Belt BT1 High Quality Inclusive Design BT2 Privacy, Daylighting and Amenity Space BT3 Landscaping BT4 Design and Layout of Highways and Accesses Policy IM5 Ensuring Development Supports Sustainable Travel

	Policy EN1 Pollution Control Policy EN2 Air Quality Policy EN3 Environmental Protection Policy GN3 Natural Environment Policy GN4 Landscape Policy CC1 Climate Change Policy CC2 Flood Risk Management Policy CC3 Water Resource Management Policy MS2 – Minerals Safeguarding
<b>National Planning Policy Framework (2023)</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 the natural environment
<b>Other relevant planning Constraints</b>	None
<b>Other material planning considerations</b>	Climate Emergency Declaration (Jan 2019)

### **Publicity/ Representations:**

The application was publicised by means of a site notice and a press notice in the Halifax Courier as well as direct neighbour notification. No representations have been received.

### **Parish/Town Council**

The site does not lie within a Parish or Town Council area.

### **Statutory and Non-Statutory Consultees**

**Highways Development Management (HDM):** HDM object to the application for the following reasons:

- The proposed passing places offer a limited opportunity for opposing traffic to pass.
- The track is generally unsuitable for motor vehicles and remains a public right of way unsuitable for further intensification.
- The application fails to conform to the requirements set in Policy BT4, which requires that the design and layout of highways and accesses should:
  - Ensure the safe and free flow of traffic (including provision for cyclists) in the interest of highway safety;
  - Allow access by emergency, refuse and service vehicles and, where appropriate, public transport vehicles
  - Provide convenient pedestrian routes and connectivity within the site and with its surroundings;
  - Take account of the hierarchy of road users.

**LLFA** – Advised that no drainage details have been submitted and it is anticipated that the proposed drainage will be self-sustaining. The LLFA recommend a condition that no drainage works shall begin until full details of the foul and/or surface water and/or sustainable systems of drainage if feasible have been provided.

**Environmental Health** – In their original response, Environmental Health identified a concern relating to drainage provision. Additional information was subsequently provided, as detailed in the report below. Environmental Health latterly confirmed that they had no issue with the treatment plan. They also propose a series of conditions relating to potential ground contamination.

**Coal Authority:** No objection

**Ecology:** No objection subject to conditions.

### **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 2023 (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 designated heritage asset) 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.

The statutory development plan for Calderdale is the Calderdale Local Plan, adopted on 22 March 2023.

### **Principle of Development**

The application site lies within the Green Belt. The NPPF states at Paragraph 137 that the fundamental aim of Green Belt (GB) 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 is clear that the construction of new buildings is inappropriate in the Green Belt. There are exceptions to this, including the criterion set out at Paragraphs 149 and 150 of the NPPF. These are consistent with Policy GB1 of the CLP, which, as relevant to this application, states the following:

*GB1 I: Within the Green Belt, the construction of new buildings is inappropriate development except in the following circumstances:*

*(f) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would (as relevant to this proposal):*

- (i) Not have a greater impact on the openness of the Green Belt than the existing development.*

This reflects guidance at Paragraph 149(g) of the Framework.

The proposed development must satisfy both strands of GB11(f)(i) in order to not be inappropriate development i.e.:

- It must constitute previously developed land and;
- The replacement development must have no greater impact on the openness of the Green Belt than the existing development.

#### *Previously developed land*

The NPPF glossary defines previously developed as the following: *Land which is or was occupied by a **permanent structure**, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This **excludes land that is or was last occupied by agricultural or forestry buildings*** (bold is my emphasis).

Whether or not the buildings within the red line boundary constitute previously developed land has been the subject of lengthy discussion in the course of this planning application.

Following a site visit, it was evident that the site constitutes a collection of buildings that has grown organically over time as the needs of the applicant has changed. It is clear that some were originally built for agricultural uses and have, in the past, been used as such, to accommodate pigs and cows. They have also been used for horses, albeit not in an agricultural capacity as the horses were not kept on the land solely for grazing.

However, the NPPF definition of previously developed land excludes land that was *last* occupied by agricultural buildings and the site visit suggested that none were last used for such purpose. The last uses appear to include storing (and previously selling) riding tackle and workwear, workshops and general storage. This is reinforced by a statutory declaration from the applicant, who states that the buildings were last used for hay storage, stables, saddlery, workshop, garage, non-domestic storage and storing vehicles. The site visit supported the contents of the statutory declaration. On the basis of the evidence, it is accepted that none of the buildings were last occupied by agricultural uses and their last use can therefore be considered as follows:

Building	Last Use	Floorspace	Volume
1	Hay storage associated with stables and subsequently part of a shop	32.1m <sup>2</sup>	101m <sup>3</sup>
2	Hay storage associated with stables	33m <sup>2</sup>	104m <sup>3</sup>
3	Stables (not agricultural)	53.6m <sup>2</sup>	124m <sup>3</sup>
4	Hay storage associated with stables	69m <sup>2</sup>	239m <sup>3</sup>
5	Shop selling saddlery	103m <sup>2</sup>	103m <sup>3</sup>
6	Workshop	40.4m <sup>2</sup>	84.9m <sup>3</sup>
7	Garage (mechanics pit evident)	36m <sup>2</sup>	81m <sup>3</sup>
8	Stables	14.2m <sup>2</sup>	42.28m <sup>3</sup>
9	Storage	49.3m <sup>2</sup>	158.5m <sup>3</sup>
10	Vehicle storage	26.7m <sup>2</sup>	100.8m <sup>3</sup>
<b>Total</b>		<b>457.30m<sup>2</sup></b>	<b>1138.48m<sup>3</sup></b>

Officers subsequently queried whether all of the buildings could be considered permanent structures – with particular reference to Buildings 3, 8, 9 and 10 and the projection shown as part of Building 1. The site visit revealed all of these to have been constructed in quite an ad-hoc manner that it was felt that they could not necessarily be considered as such.

However, the agent reasonably highlighted that the term 'permanent' is used in different contexts across planning policy, legislation and case law. Unlike the exception to inappropriate development at Paragraph 150 of the NPPF in relation to the re-use of buildings, which refers to buildings of permanent and substantial construction, Paragraph 149 refers only to previously developed land and ergo, permanent structures. It does not include the test of substantial construction and, refers only to excluding temporary structures. There is then considerable case law on the matter of permanence. This includes the case of *Skerritts of Nottingham Ltd vs Secretary of State for Environment, Transport and Regions and Anor (2000)*, which broadly related to the question of the permanence of a marquee and identified the tests of size; permanence; and degree of physical attachment.

In this case, none of the structures are so small as to be considered de minimis in terms of planning control, and the structures have all been there for a significant period of time. In terms of their physical attachment, it was observed on site that Buildings 3 and 10 have mostly collapsed but even so, these and all the remaining buildings broadly demonstrate a sufficient degree of physical attachment to the land on which they stand. Although the agent has conceded the removal of Buildings 3 and 10 from a subsequent assessment of openness due to their state of dilapidation, it is still considered that overall, the site does constitute previously developed land (PDL).

#### *Greater impact on openness*

Given that Officers accept the site to be PDL, the second strand is to assess whether the proposal would have a greater impact on the openness of the Green Belt than the existing development.

Openness is, in effect, the absence of development and it has both a visual and spatial aspect to it. Spatially, the existing outbuildings comprise a collection of buildings that are mostly single storey and on different levels. Excluding buildings 3 and 10, the existing floorspace extends to 377m<sup>2</sup> with a total built volume of 913.68m<sup>3</sup>.

The replacement house would have a footprint of 214.9m<sup>2</sup> and a built volume of 830m<sup>3</sup>. In respect of built form on the site, the proposal would therefore lead to an overall reduction in footprint by approximately 42% and a 9% reduction in volume. Whilst at least the volume reduction would be reasonably modest, the current buildings are spread over a relatively large area. The replacement dwelling would be more contained as reflected in the reduction of floorspace, and it would minimise the scattering and spread of buildings across the site. There would also be some reductions in the overall height of buildings across the site.

Visually, views of the development would be most closely appreciated from reasonably localised viewpoints, including the adjacent public right of way, which would be cleared of buildings and made evident. Given its position on the steep valley side, the house would also be glimpsed from some surrounding roads and vistas. However, the proposed dwelling would be more contained in form than the existing buildings in both length and height. Furthermore, the parking area would be enclosed by the built form and the reasonably limited amenity space and patio areas would limit the visual extent of domestic paraphernalia. For these reasons, it is considered that the proposal would lead to an overall improvement in the openness of the Green Belt.

Taking all these matters into account, it is concluded that the proposal would represent the complete redevelopment of previously developed land and it would not have a greater impact on the openness of the Green Belt than the existing development. It therefore meets the exceptions set out at Policy GB11(f)(i) of the Local Plan and Paragraph 149(g) of the Framework. Consequently, the proposal would not be inappropriate development and it would be acceptable in principle subject to an assessment against all other relevant policies in the CLP and any other relevant material considerations.

## **Highways and Accessibility**

Policy IM5 of the CLP seeks to ensure that development supports sustainable travel. It sets out that all new development will be required to comply with standards relating to public transport accessibility (within 400m of a bus stop with a 30-minute service to a main town centre), mobility and accessibility and car parking standards. It also requires development proposals to take account of the hierarchy of road users and consider how the proposed development will support modal choice.

Policy BT4 of the CLP relates to the design and layout of highways and access and includes a requirement to ensure that developments allow for the safe and free flow of traffic, provide suitable access for emergency, refuse and service vehicles as well as convenient and safe pedestrian routes.

Within the Framework, Paragraph 105 states that the planning system should actively manage patterns of growth in support of promoting sustainable travel, albeit acknowledging that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be considered in decision-making. Paragraph 79 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Furthermore, Paragraph 111 of the Framework confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

In considering accessibility, it is also relevant to consider whether the proposal represents an isolated home in the countryside, which, in accordance with Paragraph 80 of the NPPF, should be avoided unless one or more of 5 specific circumstances are met.

There is extensive case law on this matter, most notably the Braintree decision (Braintree DC v SSCLG [2018] EWCA Civ. 610) in which the Judge held that the word “isolated” in the phrase “isolated homes in the countryside” simply connotes a dwelling that is physically separate or remote from a settlement. However, he also determined that whether a proposed new dwelling is, or is not, “isolated” in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand.

In this case, the site forms part of a small grouping of buildings that also includes Siddal Wells and Siddal Wells Cottage. Whilst the site is detached from the nearest settlement of Siddal, separated by a couple of fields, it is not considered to be remote from it. As the crow flies, the edge of Siddal would only be approximately 0.12 miles away at the closest point. The walk to Siddal Primary School would be approximately 0.8 miles, which, apart from the small section on Siddal Top Lane that has very limited through traffic, and part of Rosemary Lane, would all have a pavement. The walk to the nearest convenience store on Oxford Road in Siddal would be approximately 0.7 miles via Siddal Top Lane and Phoebe Lane whilst the walk to the nearest shop in Southowram would also be approximately 0.6 miles via Siddal Top Lane and West Lane (also mostly with the benefit of a pavement). It is therefore considered to be a rural location but not isolated.

The reason for bringing this application to this Committee is the objection from Highways Development Management (HDM). HDM object on the following grounds:

It is the view of HDM that the application fails to conform to the requirements set out in Policy BT4 of the CLP for the following reasons:

The design and layout of highways and accesses should:



- Ensure the safe and free flow of traffic (including provision for cyclists) in the interest of highway safety;
- Allow access by emergency, refuse and service vehicle and, where appropriate, public transport vehicles
- Provide convenient pedestrian routes and connectivity within the site and with its surroundings;
- Take account of the Hierarchy of Road Users.

In addition, HDM provide the following more detailed comments:

- The site is not in an accessible location in terms of access to local facilities such as schools and convenience shopping. This is contrary to both the CLP and NPPF in that it would result in residents being reliant on the private car for their day to day needs.
- The pedestrian route to the bus stops and facilities in both Southowram and Siddal are along steep, narrow, unlit roads, predominantly without a footway.
- It would be around 1km to the nearest bus stops; this exceeds the 400-500m distance typically considered to be the threshold maximum walking distance.
- Siddal Top Lane in itself is a narrow single-track lane set on the banks of a steep valley side. The road takes the form of a series of bends and has very limited suitable passing places for 2 vehicles to pass.
- There is a road sign at the junction with Change Lane indicating Siddal Top Lane to be unsuitable for motor vehicles, being a narrow road with a series of sharp bends.
- The potential for a confrontation of opposing traffic on Siddal Top Lane is high with any typical dwelling creating up to 6 vehicle movements per day. The lack of passing places would lead to difficult and dangerous reversing manoeuvres being performed. With a significant drop to one side of the road, this would also add to the severity of any incident.
- The track is also a public right of way and increasing traffic flow would have an impact on pedestrian, equestrian or cyclists' safety.
- Siddal Top Lane is wholly unsuitable for further intensification.
- Siddal Top Lane is also less than 3.7m wide in parts and, as such, would fail to satisfy the standards set by West Yorkshire Fire and Rescue. That minimum width must be met unless less than 45m from the highway.

Whilst the clear concerns of HDM are acknowledged, it remains the case that the NPPF is clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Officers are not persuaded that either of these 'tests' would be met for the following reasons:

- The access to the dwelling would utilise the lane that already provides access to the existing houses on Siddal Top Lane. An integral garage would be incorporated within the house as well as a splayed driveway area in front.
- In terms of ensuring the safe and free flow of traffic (including provision for cyclists) in the interest of highway safety, the application relates to 1 x 3-bedroom dwelling. Whilst it would

undoubtedly generate some traffic movements, it would be residents that would be familiar with the access track, which would only be shared by approximately 3 other properties. It is considered that the cumulative impact on the road network of one additional dwelling in addition to the existing dwellings could not be regarded as severe.

- The dwellings along Siddal Top Lane are already served by refuse and service vehicles, and presumably by emergency vehicles as required. The Council uses transit size vans to collect the refuse and recycling, as it does in other rural parts of the district. The applicant has advised that the refuse vehicle travels from one end of Siddal Top Lane to the other.
- Access and facilities for the Fire Service is a matter for Building Regulations rather than planning legislation per se. It is assessed under a different regulatory framework. Building Regulations do state that the minimum width of road between kerbs for a fire pump vehicle should be 3.7 metres, albeit the minimum width of gateways should be 3.1 metres, suggesting that a fire vehicle could access a property if the road width narrowed to 3.1 metres. It will be for the applicant to address this matter through Building Regulations should planning permission be granted.
- In terms of convenient pedestrian routes and connectivity, the site would be approximately 200 metres along Siddal Top Lane to reach West Lane heading north-east to Southowram and Change Lane onto Rosemary Lane heading south-west towards Siddal. The West Lane section mainly benefits from a narrow footpath and street lighting. Change Lane and Rosemary Lane have some street lighting albeit there is no footpath on the latter road. There would also be a direct footpath link from the site to Rosemary Lane via Route 714 and 716.
- Turning to the requirement to take account of the hierarchy of road users, as set out above, there is the opportunity for modal choice from the application site. Whilst, given its partly rural location, there may be some reliance on the private car, it must be acknowledged that the NPPF and CLP do enable the re-development of Green Belt sites such as this site, as set out above. Given the nature of the Green Belt, it is unlikely that these would be within highly accessible locations. Consequently, the NPPF recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be considered in decision-making. It is the view of Officers that the site is not so inaccessible that opportunities to walk or cycle to local services and facilities would be impossible, particularly as it would be less than a mile to facilities in Siddal and Southowram.
- The pedestrian route to the bus stops and facilities in both Southowram and Siddal are reasonably steep and partly without a footway, albeit there are reasonably good sections of footway and lighting to Southowram. It is noted that the nearest bus stops would exceed the 400-500m distance typically deemed to be the threshold maximum walking distance but as set out above, it is reasonable to acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. It is not considered a sufficient reason on its own to refuse planning permission.
- Whilst Siddal Top Lane is a narrow single-track lane, this application would result in an additional single dwelling and, as set out above, the future residents would become familiar with the access arrangements and use the lane accordingly. The applicant states that there are at least two available passing places – one measured 5.4m in width close to the bend of the application site and the other closer to the house. The applicant also confirmed that there is a further passing place on the flatter section towards Change Lane. However the Council placed stones in it due to cars parking there at night and causing anti-social behaviour. Additional activity along the lane may be helpful in this regard in terms of providing natural surveillance.

- It is accepted that there is a road sign at the junction with Change Lane indicating Siddal Top Lane to be unsuitable for motor vehicles. However, it is clearly already used to access residential properties and the introduction of one additional dwelling would not, in the view of Officers, meet the test of a severe cumulative impact.
- Given the limited level of traffic that would use Siddal Top Lane as a result of this development, it is considered that its shared use with pedestrians and cyclists would be unlikely to result in a particularly unsafe route for any user.
- The line of the public right of way adjoining the application site would be fully reinstated.

Taking all these matters into account, and also noting that planning applications must be determined having regard to the development plan and guidance as a whole and in light of all material considerations, it is the view of Officers that a refusal on highway grounds alone could not be sustained. Bearing in mind the very limited scale of development, it is considered that it would sufficiently accord with Policies BT4 and IM5 of the CLP given the particular circumstances of the application.

### **Design matters – layout, scale and appearance**

Policy BT1 of the CLP refers to the need to secure high quality, inclusive design that demonstrates a holistic approach to design quality, with regard to aesthetics, function and sustainability. It includes a requirement that the design style proposed in new developments should respect or enhance the character and appearance of existing buildings and surroundings, taking account of its local context and distinctiveness. This is reflected in guidance in the NPPF, which advises amongst other matters, that planning decisions should ensure that developments function well and add to the overall quality of the area and be sympathetic to local character and history.

The proposed development would result in the removal of a collection of buildings in a varied state of disrepair and their replacement with a contemporary dwelling comprising both single storey and double-height spaces. The proposal would replicate the elongated form of existing structures on the site albeit within a more contained form. Architecturally, it would comprise a series of mono-pitched roofs that would serve to minimise the scale of the development when viewed from the surrounding area. The double height central space with large window openings would give the house a modern aesthetic. It would, however, be constructed in coursed natural stone to the facades to ensure that it would be contextually appropriate in its appearance with regard to the traditional buildings within the locality. Drystone walls would also be used to define the curtilage to ensure that the scheme as a whole would sit appropriately within the landscape.

Taking all these matters into account, it is considered that the proposal would represent a visual enhancement to the Green Belt in comparison to the existing structures and it would deliver a sufficiently high-quality scheme in layout, scale and appearance to satisfy the requirements of Policy BT1 of the CLP and guidance within the NPPF.

### **Landscape and Landscaping**

The site lies within both the Calder Settled Valleys and Thornton Queensbury Urban Fringe Landscape Character Areas as defined on the CLP Policies Map. Policy GN4 of the CLP advises that new development should be designed in a way that is sensitive to its landscape setting and retains and enhances the distinctive qualities of the landscape area in which it would be situated. It confirms that planning permission will only be permitted if the proposal would meet four criteria. These include the need for the scheme to retain features and habitats of significant landscape, historic, geological and wildlife importance, enhance the character and qualities of the landscape

area through appropriate design and management and deliver appropriate landscape mitigation that is proportionate.

The Calderdale District Landscape Character Assessment and Review of Special Landscape Area Designation (LCA) includes some of the characteristics of the Calder Settled Valleys as being a linear pattern of urban settlement on the valley floor, heavily developed areas downstream around Halifax and a small-medium scale regular field pattern. For the Thornton Queensbury Urban Fringe, the LCA includes a reference to scattered farmsteads with buildings of a traditional local stone vernacular, mixed in with more modern buildings of various styles. It is considered that the proposal would not alter field patterns and it would replace existing structures with a more contained building constructed in stone in a modern style. It is considered that in broad terms, it would not be out of character with the landscape as a result and would comply with Policy GN4.

Policy BT3 of the CLP states that development proposals should be accompanied by schemes that include good quality hard and soft landscaping. There would be limited scope for extensive landscaping around the building, which is appropriate to contain the extent of domestic paraphernalia around it. However, the submitted plans indicate the use of drystone walls to define the curtilage. This would be appropriate and would be most visible from the surrounding area. It is considered that the parcels of garden and patio area to serve the development would then be appropriately contained by the stone boundary walls and would be landscaped as fitting for a domestic property. For this scale of development, it is therefore not considered necessary to require detailed landscape plans of plants and species for subsequent approval. For these reasons, it would comply with Policy BT3.

### **Residential Amenity**

Policy BT2 of the Local Plan states 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 them. Annex 2 of the CLP then establishes minimum separation distances between main and secondary facing windows. These include 21 metres between main-to-main windows such as front to front and back-to-back and 12 metres main to side.

In this case, the closest existing property would be the applicants at Siddal Wells Cottage. However, only a part of the rear elevation would be visible from this property, comprising the garage door and main entrance. In the absence of any primary windows in this elevation, there would be no harm to the living conditions of either the existing or future occupiers.

Beyond that, is the existing property at Siddal Wells. The front elevation of this dwelling looks southwards and does not have a direct line of sight to the application site. Furthermore, as above, there would be no primary windows within the new dwelling looking towards Siddal Wells and as such, there would be no harm to the living conditions of the existing or future occupiers. Beyond these houses would be Backhold Royd, over 150 metres to the north and Siddal Top Farm over 100 metres to the south. Both of these properties would be far in excess of the minimum separation distances set out in Annex 2.

For these reasons, it is considered that the proposal would not result in harm to the living conditions of either existing or future occupiers and it therefore complies with Policy BT2 of the CLP.

### **Environmental Considerations – Ground conditions, Noise and Air Quality**

Policy EN1 of the CLP refers to pollution control and highlights the need to reduce the amount of new development that may reasonably be expected to cause pollution or be exposed to it. Policy EN2 refers to Air Quality and the need to ensure that any impact is assessed whilst Policy EN3 relates to

environmental protection and the need for developers to understand the environmental implications of their proposals and to ensure that development does not give rise to and is not exposed to environmental hazards.

Within the Framework, Paragraph 183(a) confirms that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. Paragraph 185 continues that planning decisions should ensure that new development is appropriate for its location considering the effects (including cumulative effects) of pollution on health, living conditions and the natural environment.

The application is not of a scale that would warrant an Air Quality Impact Assessment (AQIA), or Noise impact Assessment and it is considered acceptable having regard to Policy EN2 and EN3. Turning to potential contamination, a Phase 1 Geo-Environmental Desk Study has been provided and conditions are recommended based on the findings of this study. Subject to the condition, the application satisfies the requirements of Policy EN1 and guidance within the Framework.

The application site also falls partly within a defined Development High Risk Area. There are therefore coal mining features and hazards that need to be considered in relation to the determination of this proposal. The Coal Authority advise that their records indicate that coal mining has taken place beneath the application site, with these workings being at shallow depth at the western edge of the site. Such workings can pose a risk of ground instability and may give rise to the emission of mine gases. In addition, a potential zone of influence from an off-site recorded mine shaft encroaches marginally across the eastern site boundary. However, the Coal Authority's records indicate that this former coal mining feature was capped with a concrete cap in 1978.

The Coal Authority subsequently note that the footprint of the proposed dwelling would be located outside the defined Development High Risk Area. Nevertheless, the application is accompanied by a Phase I Geo-Environmental Report and Coal Mining Risk Assessment. This was able to conclude that the previously treated off-site mine shaft posed no risk to stability at the site and that the risk posed by historic coal workings is low. It concluded that further investigation works into coal mining legacy would not be required. The Coal Authority are satisfied that the report sufficiently demonstrates that the application site would be safe and stable for the proposed development albeit noting that more detailed considerations of ground conditions and foundation design may be required as part of any subsequent building regulations application. Nonetheless, the Coal Authority has no objection to the proposed development, and it is considered acceptable in this regard.

## **Biodiversity**

Policy GN3 of the CLP confirms that the Council will seek to achieve better management of Calderdale's natural environment through a range of measures, including to deliver enhancement and compensation commensurate with their scale, which contributes towards the achievement of a coherent and resilient ecological network and achieves net gains in biodiversity.

The site lies adjacent to, but outside, the Wildlife Habitat Network. Whilst a Species Enhancement Statement has not been submitted as part of this application, pre-dating the adoption of the Local Plan, given the very limited scale of the proposal, it is considered that this matter can be adequately addressed by means of a planning condition to require the installation as a minimum of bird and bat boxes to be installed prior to first occupation.

The Council's Countryside Services Officer has advised that information presented with the application demonstrates that there is a low chance of an adverse impact on roosting bats. As such, a bat survey was not required. Conditions are recommended in relation to the need for a bird survey in the event of works to remove the buildings taking place in bird nesting season and the provision of enhancement measures, including a house sparrow terrace to the north facing elevation of the

proposed dwelling. These measures would ensure compliance with Policy GN3 of the CLP and guidance within the Framework.

### **Climate Change – Resources and Lifespan**

The Council officially declared a Climate Emergency in February 2019. This declaration acknowledges that significant changes need to be made to our consumption, waste and generation of energy in order to combat the effects of predicted climate change on the natural world. Within the Local Plan, Policy CC1 sets out the ways in which development proposals should contribute to mitigating and adapting to the predicted impacts of climate change. These include ensuring energy efficiency and reduced carbon emissions are regarded as priority outcomes in development planning and using sustainable design and construction methods.

The applicant has not provided any specific details about the way the development would mitigate and adapt to the predicted impact of climate change. However, it is the case that it would be constructed under the current building regulations, which requires houses to demonstrate a reduction of carbon emissions in domestic new builds by 31%. The house would have sufficient space to accommodate cycle storage and it would also be required under building regulations to provide an Electric Vehicle (EV) charger. For a building of this size, it is considered to sufficiently meet the requirements of Policy CC1 of the CLP.

### **Drainage and Flood Risk**

Within the Local Plan, Policy CC2 sets out the Council's approach to flood risk management. As relevant to this site, which lies within Flood Zone 1, at the lowest risk of flooding, it confirms that Flood Risk Assessments are only required for development proposals over 1 hectare in Flood Zone 1. It does expect, however, that any development has full regard to and compliance with the advice of the Environment Agency (or equivalent agency), the objectives and priorities for flood risk management set out in the Local Flood Risk Management Strategy and the published evidence of local flood risk and its significance as included in Strategic Flood Risk Assessments, Surface Water Management Plans and other recognised sources of flood risk data.

In this regard, the site does mostly fall within a Critical Drainage Area (CDA) as defined in the CLP. Policy CC2 requires that site-specific FRAs will be required for development proposals which fall within CDAs, regardless of which Flood Zone applies. These must demonstrate that the development will be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. It should demonstrate that new development is not at risk from flooding from existing drainage systems or potential overflow routes. Finally, Policy CC3 refers to water resource management and confirms, amongst other matters, that development will only be permitted if it can be demonstrated that the water supply and wastewater infrastructure required is available or can be improved to meet the additional demand generated by the new development.

In this case, the applicant has prepared a supplementary report in respect of the CDA. It notes that the boundary of the CDA cuts through the site and appears arbitrary in relation to the site topography. Nevertheless, it details that in relation to surface water runoff, the overall roof area of the proposed development would be 28% less than the existing buildings (222m<sup>2</sup> vs 308m<sup>2</sup>). This would represent a betterment and additional soft landscaping would also be introduced in the form of garden areas, where none currently exists. It is therefore considered that the risk from surface water flooding would be reduced as a result of the reduction in built footprint when compared with the existing situation.

In addition, in terms of potential overland flow routes impacting on the development, the land contours slope downwards from east to west. There are no watercourses nearby other than the well

/ spring indicated to the west of the applicant's property. There are also no existing drainage systems within the vicinity of the site to trigger overflow risk. The only overland flow route potentially affecting the development might be down Siddal Top Lane (from south to north) in the event of a sudden and torrential rainfall event. Because water flowing down Siddal Top Lane could potentially affect the proposed dwelling, particularly where the garage entrance is proposed, an upstand is indicated on the submitted plans in order to prevent overland flow entering the garage area.

In terms of water supply, the applicant has advised that the dwelling would be connected to mains water. As there are no public foul or combined sewers in the vicinity of the site, the submission proposes that the foul flows from the development would be directed to and treated via a private package treatment plant. In the course of the planning application, in response to the consultation from Environmental Health, the applicant provided further detail of the proposed package treatment plant to be used, which would be suitable for up to 8 persons. Environmental Health confirmed that they had no issues with the treatment plant, albeit noting that the initially proposed use of a borehole for discharge purposes would not meet the general binding rules set out by the Environment Agency. Subsequently, the applicant advised that there would be sufficient space within the landholding to install the plant, thus mitigating the borehole. Further final details would nonetheless be required by condition. Taken together, and subject to the drainage condition above, these measures are sufficient to ensure compliance with Policies CC2 and CC3 of the CLP.

### **Summary**

The proposal would represent the complete redevelopment of previously developed land and it would not have a greater impact on the openness of the Green Belt than the existing development. It therefore meets the exceptions set out at Policy GB11(f)(i) of the Local Plan and Paragraph 149(g) of the Framework. Consequently, the proposal would not be inappropriate development and it would be acceptable in principle subject to an assessment against all other relevant policies in the CLP and any other relevant material considerations.

Having regard to other matters, it is considered that there would be no impact on neighbouring occupiers arising from overlooking or loss of light, nor any issues in principle in respect of ecology, climate change, flood risk, ground contamination, air quality or noise.

Whilst it is acknowledged that given its partly rural location, there may be some reliance on the private car, the NPPF and CLP both enable the re-development of Green Belt sites and the NPPF also recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Given the scale of development and the fact that there would be some opportunity for modal choice to walk or cycle to local services and facilities it is not considered that a refusal on the accessibility of the site could be sustained. Moreover, given the scale of the development and the fact that future occupiers would become familiar with the use and operation of Siddal Top Lane, having regard to Paragraph 111 of the Framework, it is not considered that there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Consequently, the development should not be prevented or refused on highway grounds as a result.

### **CONCLUSION**

**The proposal is considered to be acceptable subject to conditions. The recommendation to GRANT planning permission has been made because the development is in accordance with the policies and proposals in the Calderdale Local Plan and National Planning Policy Framework set out in the sections above and there are no material considerations to outweigh the presumption in favour of such development**

Richard Seaman  
For and on behalf of

Further Information

Should you have any queries in respect of this application report, please contact in the first instance:  
- Kate Mansell (Case Officer) on 07596 889568 or Jason Morris (Lead Officer) on 01422 392216

**Conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
2. The development shall be carried out in complete accordance with the approved plans unless the variation from approved plans is required by any other condition of this permission.
3. 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.
4. No above ground works shall commence until details and samples (if requested) of all external materials, including walling, roofing and fenestration materials, as well as details of surfacing materials for the parking area have been submitted to and approved in writing by the Local Planning Authority. The building works shall be constructed from the materials thereby approved.
5. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order), no development (as defined by Section 55 of the Town and Country Planning Act 1990) as may otherwise be permitted by virtue of Classes A (enlargement, improvement or alteration of a dwellinghouse) B (additions to the roof), C (other alterations to the roof), D (porches) E (buildings incidental to the enjoyment of the dwellinghouse) and F (hard surfaces) of Part 1, Schedule 2 of the Order shall be carried out to the development hereby approved or within the curtilage of the dwellinghouse.
6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.
- b) Where site remediation is recommended in the Phase II Intrusive Site Investigation Report development shall not commence until a Remediation Strategy has been submitted to and approved in writing by the local planning authority. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy so approved. In the event of contamination not previously considered being identified the local planning authority shall be notified of the extent of that unforeseen contamination and of the further works necessary to complete the remediation of the site.



- c) Following completion of all remediation measures a Validation Report shall be submitted to the local planning authority. Unless otherwise agreed in writing with the local planning authority, no part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the local planning authority.
7. Prior to any above ground works commencing, a scheme for the provision of separate storage and collection of wastes, including recyclable wastes, arising from the development and compatible with the requirements of the Council's waste collection service, shall be submitted in writing to the Local Planning Authority for its approval. The scheme shall satisfy the requirements of British Standard 5906:2005 and shall account for:
    - a) A suitable location and provision of waste. There shall be level accessways between waste stores and waste collection points, and unobstructed access for refuse collection vehicles to the waste collection points.
    - b) The design and construction of waste stores so as to minimise loss of amenity due to vermin, odour, flies and animal attack; and to provide sufficient space for different receptacles for the separate storage of recyclable and non-recyclable wastes.

The provisions shall be constructed in accordance with the scheme so approved prior to the first occupation of the development and maintained thereafter.
  8. No removal or management of any buildings or 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 such works have commenced 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.
  9. Prior to any above ground works commencing, a Species Enhancement Statement shall be provided to identify the bat roosting and/or bird nesting features that are to be installed on the application site. This shall include one long lasting house sparrow terrace constructed of concrete, woodcrete, ecostyrocure or similar material shall be installed within the fabric of the building 50cm of the N facing roofline (but not directly above any windows or doors). These measures shall be installed, and details provided of their installation prior to first occupation of the dwelling hereby approved. They shall thereafter be retained.
  10. Prior to the construction of any site boundary, details of the height and material of any boundary shall be submitted to and approved in writing by the Local Planning Authority. The boundaries shall then be constructed in accordance with the approved details and retained thereafter.

## **Reasons**

1. To accord with Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt as to what is permitted and to ensure a more satisfactory development of the site and compliance with the policies of the Calderdale Local Plan.

3. To ensure proper drainage of the site and to ensure compliance with Policy CC2 of the Calderdale Local Plan.
  4. To ensure a satisfactory appearance in accordance with Policy BT1 of the Calderdale Local Plan and guidance within the National Planning Policy Framework.
  5. Given the constrained size of the site and to protect the character and appearance of the site given its location in the Green Belt in accordance with Policies BT1 and GB1 of the Calderdale Local Plan and guidance within the Framework.
  6. To enable the local planning authority to ensure that any contamination at the site will be addressed appropriately and that the development will be suitable for use.
  7. To ensure an appropriate method for the storage and collection of waste in accordance with Policy BT1 of the Calderdale Local Plan.
  8. In the interests of the protection of species to comply with Policy GN3 of the Calderdale Local Plan and guidance within the National Planning Policy Framework.
  9. In the interests of the protection of species to comply with Policy GN3 of the Calderdale Local Plan and guidance within the National Planning Policy Framework.
  10. In the interests of visual amenity and to ensure compliance with policy BT1 of the Calderdale Local Plan.
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