

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

**Date of meeting: 12 March 2024**

**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:**

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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 12 March 2024**

<b>Time &amp; No.</b>	<b>App No.</b>	<b>Location</b>	<b>Proposal</b>	<b>Ward</b>	<b>Page No.</b>
1400 - 01	21/00547/RES	Land Off Phoebe Lane Siddal Top Lane Siddal Halifax Calderdale	Residential development of 104 dwellings with associated parking and landscaping (Reserved Matters application pursuant to outline planning permission 16/00870/OUT for the redevelopment of a former industrial (B2 Use) site for a residential development of up to 105 Dwellings ) (Revised scheme)	Town	5 - 30
1400 - 02	23/00987/FUL	1 Ivy Cottages Stainland Road Barkisland Sowerby Bridge Calderdale	Demolition of existing buildings to facilitate development of one detached dwelling	Ryburn	31 - 44
1400 - 03	23/00179/FUL	33 Savile Park Road Halifax Calderdale HX1 2EN	Conversion of nursing home(Class C2) to 6 apartments(Class C3)	Skircoat	45 - 54
1400 - 04	23/00471/FUL	Land Adjacent To 31 Bright Street Sowerby Bridge Calderdale	Three dwellings	Sowerby Bridge	55 - 66

Time Not Before: 1400 - 01

Application No: 21/00547/RES

Ward: **Town**

Area Team: **South Team**

Proposal:

**Residential development of 104 dwellings with associated parking and landscaping  
(Reserved Matters application pursuant to outline planning permission 16/00870/OUT for the  
redevelopment of a former industrial (B2 Use) site for a residential development of up to 105  
Dwellings ) (Revised scheme)**

Location:

**Land Off Phoebe Lane Siddal Top Lane Siddal Halifax Calderdale  
HX3 9JR**



Applicant:

**Fernbrook Associates Ltd**

Recommendation: **PERMIT**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

Consultations:

Highways Section

Lead Local Flood Authority

Yorkshire Water Services Ltd (BC)  
Housing Services  
Education Services  
West Yorkshire Police ALO  
Green Spaces And Street Scene  
Tree Officer  
Business And Economy  
Environment Agency (Waste & Water)  
Countryside Services (E)  
Environmental Health Services - Pollution Section (E)  
West Yorkshire Passenger Transport Exec  
The Coal Authority  
West Yorkshire Combined Authority  
West Yorkshire Police ALO  
The Coal Authority  
The Coal Authority  
Highways Section  
Lead Local Flood Authority  
Yorkshire Water Services Ltd (DM)  
Housing Services  
Education Services  
Green Spaces And Street Scene  
Tree Officer  
Business And Economy  
Environment Agency (Waste & Water)  
Biodiversity  
Environmental Health Services - Pollution Section (E)  
West Yorkshire Passenger Transport Exec  
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Highways Section  
Lead Local Flood Authority  
Yorkshire Water Services Ltd (BC)  
Housing Services  
Education Services  
West Yorkshire Police ALO  
Green Spaces And Street Scene  
Tree Officer  
Business And Economy  
Environment Agency (Waste & Water)  
Countryside Services (E)  
Environmental Health Services - Pollution Section (E)  
West Yorkshire Passenger Transport Exec  
The Coal Authority  
West Yorkshire Combined Authority  
Highways Section  
Biodiversity  
Education Services

## **Description of Site and Proposal**

The application site extends to approximately 3.3 hectares comprising the site of a former quarry and metal processing works. It sits either side of Siddal Top Lane, a cobbled lane that runs north-south almost centrally through the site, accessed from the top of Phoebe Lane, a reasonably steep climb through existing residential housing.

The existing site is of mixed appearance and character. To the west of Siddal Top Lane is the only remaining building on site, a red brick structure likely to have been originally constructed as a forge with an engine/boiler house (Cinder Hill Brick Works). This dates to circa 1914, which is also the date on the adjacent brick chimney. A further chimney lies to the north of the building. The remainder of the site, whilst historically largely occupied by built form, is now cleared of development and comprises a former quarry and open areas of landscape. It constitutes both brownfield and greenfield land.

Outline planning permission for the re-development of the site for a residential development of up to 105 dwellings was granted on 11 May 2018 in accordance with 16/00870/OUT following a consideration of the application at the Planning Committee on 8 May 2018. The outline application was submitted to consider the principle of residential development and the means of access only, both of which were approved. The principle of building up to 105 houses on the site and the access into it from Phoebe Lane is therefore already established.

The outline approval was granted subject to 11 conditions, including Condition 1, which states:

### **Condition 1**

*The development shall not begin until full details of the following matters as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015 have been submitted to and approved in writing by the Local Planning Authority:*

- (a) appearance;*
- (b) landscaping;*
- (c) layout; and*
- (d) scale*

*The development shall thereafter be implemented in accordance with the details so approved and so retained thereafter.*

These are the 'Reserved Matters,' which are, in effect, the outstanding details that were **not** included within the outline application. So, this application is a Reserved Matters submission to consider all of the above, which are defined as follows:

- Appearance - the aspects of a building or place within the development which determine the visual impression the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture;
- Landscaping - the treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated.
- Layout - the way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development;

- Scale - the height, width and length of each building proposed within the development in relation to its surroundings;

For clarity, in legal terms, a reserved matters submission is not a planning application. It is, in effect, a discharge of condition application to discharge Condition 1 of the outline planning permission. Consequently, this application cannot and should not re-assess the principle of development. That has already been established by the outline planning permission for up to 105 dwellings. Equally, it is not within the scope of this application to reassess matters of principle relevant to the outline planning permission, such as the provision of affordable housing or other infrastructure contributions. This Reserved Matters submission can only consider what the development will look like, how it will be laid out, the scale of the development and the landscaping pursuant to the outline permission.

This Reserved Matters scheme therefore proposes the residential development of the site for 104 dwellings. This would comprise 86 new build houses and the conversion of the existing former mill building on the site to create 18 apartments. The chimney adjacent to this building would also be retained. The remainder of structures on site would be cleared.

The development would offer the following housing split:

#### Apartments

10 x 1-bed apartments

8 x 2-bed apartments

#### Houses – 2 house types:

Type 1: 32 x 3-bed (Plots 1 to 32)

Type 2: 54 x 2-bed (Plots 33 to 86)

This would deliver the following housing mix:

1-bedroom units – 10%

2-bedroom units – 60%

3-bedroom units – 30%

The access into the site would be as per the outline approval, via Phoebe Lane. The residential development would be largely contained on either side of Siddal Top Lane. Around the edge of the site to the east and west, a large area of existing vegetation would be retained and subject to an ecological and landscape management plan. The scheme would also include new tree planting and landscaping.

It is relevant to note that in addition to this Reserved Matters submission, the applicant will separately have to discharge any other outstanding conditions on the outline planning permission where further details are required. Whilst some of these matters have been considered in the course of the Reserved Matters, they do not form part of this submission and are subsequently not considered as part of this report. They will be fully assessed as separate discharge of condition applications in due course. For Members information, these relate to the following:

Condition 2: Phase II Intrusive Site Investigation Report

Condition 3: Details of foul and surface water drainage

Condition 4: Nesting bird survey

Condition 5: Scheme for biodiversity mitigation and enhancement

Condition 6: Tree retention details

Condition 7: Scheme for the storage and collection of waste

Condition 9: Detailed access design

Condition 10: Site Investigation works: mine shafts, shallow coal workings or adits



Condition 11: Survey of the condition of Phoebe Lane before and after construction.

For completeness, it is noted that Condition 8 requires compliance with the Flood Risk Assessment approved as part of the outline planning permission.

**This Reserved Matters application is brought to the Planning Committee for the following reasons:**

- (i) In determining approval for the outline planning permission at the 8 May 2018 Planning Committee, Members resolved that the Reserved Matters should also be submitted to Committee for determination.**
- (ii) The significant number of representations that have been received.**

### **Relevant Planning History**

16/00870/OUT: Redevelopment of a former industrial (B2 Use) site for a residential development of up to 105 Dwellings (Outline)  
Approved: 11 May 2018

The outline approval to consider the principle of residential development and the means of access into the site was granted on the basis of up to 105 dwellings as set out above with vehicular access taken from Phoebe Lane. It was as part of this application that key issues such as highway impact, air quality, affordable housing, flooding and drainage, wildlife conservation, ground conditions and education were all assessed and found to be acceptable subject to conditions.

In issuing that decision, it was determined at that time that contributions towards education and affordable housing could not be sought, and they are therefore not a requirement of the outline approval. For the reasons set out above, such matters cannot be reconsidered as part of this Reserved Matters application.

Matters of layout, scale, appearance and landscaping were all reserved for future consideration (and now part of this current application). However, the indicative scheme submitted with the outline planning application (for illustrative purposes only) showed the clearance of all existing buildings and structures from the site (including the chimneys) and the introduction of a highly contemporary housing scheme of two-three storeys.

### **Key Policy Context:**

The most relevant planning policies are set out below (bearing in mind that this is a Reserved Matters application to consider only appearance, layout, scale and landscaping).

The outline permission was approved prior to the adoption of the Calderdale Local Plan. Following the adoption of the CLP, it is noted that this site is now allocated for housing with an indicative capacity of 105 dwellings. The housing allocation is noted for information.

<b>Calderdale Local Plan (CLP)</b>	Housing Allocation: Site number LP1425 Land south of Phoebe Lane, Siddal Indicative Capacity: 105 dwellings Landscape Character Type: Calder (Todmorden Hebden Bridge Mytholmroyd) – Settled Valleys.
<b>Relevant CLP Policies</b>	BT1 High Quality Inclusive Design BT2 Privacy, Daylighting and Amenity Space BT3 Landscaping BT4 Design and Layout of Highways and Accesses Policy GN4 Landscape
<b>National Planning Policy Framework (2023)</b>	5. Delivering a sufficient supply of homes 9. Promoting sustainable transport 12. Achieving well-designed places 15. 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 (June 2021 and February 2023), a press notice in the Halifax Courier as well as direct neighbour notification of the original and the revised scheme. A total of 74 objection letters to the development have been received. In summary, the objectors raise the following concerns:

#### *Highways*

- The access to the site is via a very steep cobbled road. This road is extremely bad in wintertime and the residents of Elderberry Way, Blackberry Drive, Bramble Close and Keswick Close are unable to drive to their homes and have to abandon their vehicles on New Lane. If the development were granted HGV s would have to deliver materials to this site and they struggled when it was previously in industrial use.
- The road from Halifax via Siddal New Road and Whitegate Road to Phoebe Lane and the road from Jubilee Road to Phoebe Lane has seen increased traffic activity over the past few years and building more houses will only add to this increase on roads which were never built to cope with this amount of traffic.
- Siddal cannot cope with the amount of traffic it already has this would put yet further strain on the existing residents.
- At the junction with West Lane/Change Lane the road signs state No Wagons/ Narrow Road Ahead/Sharp Bends Ahead. The visibility to the right at the give way is substandard by the curvature of Change Lane & is a safety concern.
- Siddal Top Lane cannot be blocked by building work as it is the only exit in winter for the residents of Siddal Top Lane.

- As a resident living on Whitegate, the road is incapable of supporting additional residential traffic especially the heavy vehicles, which would use this road as Phoebe Lane is too steep for them, also in winter the road can get very icy which would be extremely dangerous.
- Rush hour is terrible along the main road, leading to lots more vehicles trying alternative back roads - Whitegate, New Lane and Siddal Lane are suffering with much more traffic already.
- Current roads and facilities within Siddal are not adequate to cope with the additional proposal of more dwellings.
- Phoebe Lane is unsuitable for the amount of traffic it receives currently with repairs being required at least once a year, it is barely passable at some points with 2 cars with busy traffic during the morning and evening rush.
- There might be \*only\* 105 homes, but the combination of the 1-, 2-, 3- and 4-bedroom houses and 4 storey apartment blocks, equates to a possible 250 additional residents and around 170 cars (based on the parking spaces). The roads are already used as rat runs, road surfaces are appalling in terms of potholes and general disrepair.
- Public transport is sporadic and limited to single decker buses due to the size of the main road.
- The access to this land is extremely steep and when we have a bad winter, the residents of the houses on Blackberry Way and Keswick Close cannot gain access to their houses. This results in residents having to park on New Lane Siddal.
- The road that links Siddal to Southowram is already a busy road for a tight country road, to build something so big, how many more cars are going to be coming up and down it.
- The amount of traffic and indiscriminate parking on Phoebe Lane makes it hazardous now, and with the local school being a fifteen minute walk away most of the properties already have two or three cars in the household, which overflow on to Phoebe Lane as there is not enough parking spaces at the houses already built and the situation would be made worse with the addition of another two or three cars per household for the additional proposed planned extra homes that totals a potential extra 250 extra vehicles using Phoebe Lane if the proposed planning application is approved.
- There is nowhere near the top of Phoebe Lane for children to play safely near their homes and the nearest play area being a good ten minute walk down Phoebe lane and along Oxford lane, which means the parents have to either take their cars down causing congestion on the main road whilst the parents supervise their children or a 10 minute walk down and 10 Minutes back up Phoebe Lane.
- The lower part of Phoebe lane above Oxford lane and below Siddal Lane has houses on both sides of the lane and consequently cars are parked on both sides of the road outside the homes on both side of the lane partially obstructing the road and increased traffic ( both contractors and residents) would increase the hazards associated with weaving in and out of the parked vehicles if the application was allowed, and there would also be large amounts of HGV's using this lane to access the site with materials which would not be able to weave in and out of the parked vehicles causing delay problems for other road users utilising Phoebe Lane whilst the development progressed.

- Every week wagons and lorries get stuck on phoebe lane, burning rubber because their tires cannot grip. How are work vehicles going to be up and down the hill without disrupting local traffic? When they were building the houses on the left side of upper Phoebe Lane (Blackberry way, Elderberry drive and Bramble close), Phoebe Lane was like an ice rink with mud and oil on the road from all of the work vehicles. It would be chaos if the cars from these 104 dwellings were abandoned because they could not reach the site.
- There were water problems, multiple power cuts etc, it was a nightmare. And even after the houses are built the traffic on an already busy Phoebe Lane will be shocking, which never gets gritted by the council.
- Potholed roads already.
- Legal process will be required to divert footpath Halifax 703 which runs through this proposed site.
- There is a public footpath that runs through the centre of the new estate which will be affected during building.

### *Ground Conditions*

- Large amounts of aluminium waste have been buried on the site from when the site was an Aluminium Recycling Plant. Disturbing the site now will release this waste into the atmosphere and put all residents in danger of cancer.
- Pollution over the years of industrial exploitation has a toxic legacy and developing that site may have an environmental impact. The excavation of slag heaps and other buried waste products from Cinderhill Works, formerly Shackleton, would release airborne pollutants into the surrounding environment.
- Health risks of unearthing the hazardous materials left by the scrap yard and aluminium works.
- The land that has been identified was previously deemed unfit for any kind of residential status and the surrounding properties were compulsory purchased and demolished due to safety concerns as there are documented clay mines in and around that specific area with further risks of releasing dangerous chemicals into the surrounding land, waterways and air.
- This is the most heavily polluted site in Calderdale. If anything the site should be cleaned of all the waste which has been buried on the site from many years of heavy metal smelting. Then the land should be left to nature. The area has numerous mine entrances and shafts, which could become a flooding problem.

### *Ecology*

- The site of the former Recycling Works is the habitat of Deer, Foxes, and Badgers which are a protected species.
- The destruction of woodland would be an irreversible loss to the natural heritage.
- This development poses a direct threat to these protected animals which are an integral part of our local ecosystem and play a vital role in maintaining ecological balance.

- The development of that site would jeopardise the various flora and fauna that thrive in this woodland environment.
- There is water running down through the side of this hill, it is indeed a massive issue with water running into the homes of houses on Keswick close and further down, more trees should be planted. There is no allowance for even just one being taken away.
- The majority of the land on the proposal is woodland. This woodland is home to deer, owls, foxes, bats, badgers, nesting birds... and any number of other smaller wildlife further down the chain. This is not the felling of one tree, it is the complete destruction of many habitats.
- Bats roost and hibernate within this area; All bat species, their breeding sites and resting places are fully protected by law - they are European protected species.
- One of the benefits of being a resident in Siddal is its access to greenspaces and how lucky it is to have various wildlife on our doorstep. Now is a time to celebrate these benefits and prioritise protecting as many of the few wild-growing wooded areas (no matter how small!) as we can and maybe developing the recycling plant into an extension of the wooded area. It could be created into a community woodland.
- The woodland area is home to various species of wildlife from rare birdlife to owls, a family of 6 Deer, which walk the woods on a regular basis, squirrels and foxes as well as other protected species.

### *Infrastructure*

- School and Doctors Surgery are full to capacity — it is already hard to get a Doctor's appointment, especially since the merger of the surgeries.
- The schools in the area are already at capacity so more houses (which usually means families with children) would just add to the requests for places. This would add to increased traffic with parents having to take their children to schools outside the area, which in turn would add to the air pollution with a car having to make the extra journeys.
- The facilities at the local School are over-subscribed and the Siddal GP Surgery has not increased in size in line with the additional homes being built in the 70s and 80s.

### *Flood Risk*

- Increased danger flooding to surrounding existing buildings.
- The clearance of woodland, alteration of natural drainage patterns, the disturbance of the clay mines and installation of hard ground creating run off will only exacerbate the flooding problem and could lead to more frequent and worse flooding for the surrounding areas.
- Many houses on Keswick Close already suffer with water ingress from the hillside behind and a near permanent 'river' seems to run down the hillside. Building work and removal of trees and other vegetation could increase the water ingress. There has already been a further disappearance of soil from behind the retaining wall holding back the soil from the hillside, which suggests more has been washed away.

- The upper green areas of Siddal also act as a natural flood prevention by absorbing a lot of the water that would otherwise cascade downhill potentially causing second Mytholmroyd with houses and businesses lower in the village being subjected to repeated flooding.
- If the application is allowed it would create a huge disruption problem to the existing water courses as the substrate under the top soil is predominantly unspoilt clay and the area was under-mined - who knows where the water would flow if its courses were disrupted, and the problem would be exasperated by the felling of trees which take up water to help with the water problem coming down from Southowram on the hills above.

### *Stability*

- Increased danger of landslip.
- The adjoining houses, because they are built on clay, have moved and will always continue to. If you build into the hillside or above you, will cause more subsidence to these houses.

### *Layout*

- The site plan indicating the type and layout of the proposed 105 dwellings has significantly departed from the associated earlier proposal that was submitted for outline permission 16/00870/OUT. Rather than a row of houses with gardens fronting onto Phoebe Lane, the new proposal now includes an imposing four storey block of flats front and top of the development. There is no regard for the very steep topography of the land where this is proposed to be cited and would surely mean massive earthworks to build up the land at one end blighting the landscape. This hugely unsympathetic building would cause a significant visual blot on the landscape. The proposal containing this unsightly large block of flats with no green surroundings shows complete disregard for the hilltop location bordering onto the greenbelt.
- The top of Phoebe Lane marks the starting point for people walking through the wood lined country lanes up to the beautiful footpaths across the hilltops in the greenbelt. Any development of this site should aim to preserve the character and appearance of this urban green space (as outlined in UDP 7.9). Instead, this unsympathetic development proposal would significantly and negatively impact the natural local environment.

### *Living Conditions*

- The current prepared position of houses would mean they would overlook houses on Keswick Close.
- Construction will cause noise, pollution and disruption to neighbours living below for many months.
- This proposed development would turn an attractively tree lined area into a large housing estate with a huge, unattractive and imposing block of flats dominating at the top, and as such is incompatible with the intentions of the Calderdale Local Plan.

### *Visual Impact*

- Established trees would have to be cut down thus spoiling the visual character of the area which can be clearly seen from across the valley at the Hospital and as there are very little wooded areas left in the area.

## *Other*

- Residential development was refused in the 1990s.
- It is a very nice outdoor area for people to enjoy (outside of the actual recycling plant.)
- Children play on the grass across from proposed site as there is nowhere else close to home - the park is too far for small children to go.
- New legislation requires electric vehicles charge points which would mean major new works required to ensure the electricity is received where it is needed yet the load of 100 new properties all with cars would be too much charging at the same time.
- The land is not suitable and overcrowded with houses in that area
- We do not need any more houses.
- The Council are only looking at all the council tax they will 'rake in.'
- The industrial usage B2 for the buildings was limited to the buildings, which does not include the woodland area on the lower south-east of the proposed development, and the fields on the upper area of the proposed development, as this is Green Belt Land and has never been used for industrial purposes by the re-cycling factory involved in the application.
- A previous application was refused for a dwelling on the site of the factory some time ago and was refused as the land was Green Belt.
- This is not a totally 'brownfield' site. Over 50% of the area on this map is woodland.

## Ward Councillor Response:

This is the reserved matters application for the previous outline consent so should provide details on the many issues identified in the original application. Apart from the continuing concerns about the size and scale of the development, the application does not consider any of the points previously made particularly about the impact of mine workings, land stability, and the various environmental impact assessments.

## Parish/Town Council

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

## Statutory and Non-Statutory Consultees (Summary)

**Highways** – there have been numerous iterations of the layout in the course of negotiations and the last response from highways noted that many of the issues raised previously had been addressed with the amended alignment and changes to the vehicular access near the apartment block. Details of the raised junctions, street levels and surface materials would be addressed by an access road condition. A minor change was requested to accommodate access to an existing public footpath (103) and the current alignment of the footpath needed to be indicated so that the extent of any footpath diversion could be seen. Highways confirmed that parking provision is acceptable although the allocated on-street parking for plots 33-40 and the adjacent footway would not be included in any

future adoption area and would remain privately maintained. In essence, Highways consider the proposal to be acceptable subject to additional details addressing the matters raised and conditions.

**LLFA** – As the revised plans offer a change to previous plans, an updated and full drainage strategy will be required and Condition 3 from the outline application is yet to be fulfilled. These matters will be addressed through the discharge of Condition 3.

**Yorkshire Water:** No objection in principle.

**Coal Authority:** The Coal Authority originally objected to the Reserved Matters submission back in 2021 on the basis that no information had been submitted to confirm that the plots would avoid the recorded mine entries and their respective zones of influence. Details of site investigation works in terms of mine shafts, shallow coal workings or adits is actually required as part of the discharge of Condition 10, which will be considered separately from this Reserved Matters submission. Nevertheless, the applicant has sought to engage with the Coal Authority in preparing the layout of the scheme. The latest response from the Coal Authority confirmed that on the basis of the information provided in December 2023, and given that the professional opinion of the author of that information is that the mine adit no longer exists, the Coal Authority withdraws their objection to this planning application, noting that the remaining coal mining legacy issues will be required to be satisfied as part of the subsequent discharge of condition application.

**Environmental Health** – No comments.

**Environmental Agency** – No comments.

**Ecology:** Details of biodiversity mitigation and enhancement are required by Condition 5 of the outline planning permission, and they will be submitted separately from this application. Nevertheless, because of the implications for the layout of the development, the applicant has provided extensive information in relation to ecology and biodiversity as part of this application, including further surveys of protected species as required. This led to some modifications to the layout in the course of the application. The final BNG calculations indicate a 24.9% Biodiversity Net Gain. No objections to the application subject to planning conditions to cover the production of a CEMP(Biodiversity), lighting, BNG monitoring and protected species.

**Tree Officer:** The Landscape & Ecological Management Plan contains details of native tree planting and management of the site which appears acceptable; however, it does not appear to include details of tree protection during the construction works. The retained tree protection details need to be provided.

NB: This would be secured by Condition 6 on the outline planning permission.

**Housing Strategy and Growth (HSG)** – in response to the Reserved Matters application, HSG set out their support for the development in providing much needed housing. HSG state that since the outline application was considered, the Council has adopted a Local Plan and has a five-year land supply. They note that the site sits within affordable housing zone B and is therefore required to deliver 30% affordable housing (31 dwellings).

NB: The affordable housing contribution cannot be re-assessed or reconsidered at Reserved Matters stage even if the Local Plan has been adopted between the granting of outline planning permission and the determination of the Reserved Matters. The outline planning permission is the root permission and the point at which issues of principle, such as affordable housing and education contributions were agreed.



**West Yorkshire Police ALO:** No objections in principle and recommends that the scheme be built to 'secure by design' standards in terms of the standard of locks etc.

### **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**

As set out above, the principle of developing the site for up to 105 dwellings with an access from Phoebe Lane has been established by the outline planning permission in accordance with 16/00870/OUT, which was granted following a consideration of the application at the Planning Committee on 8 May 2018. It cannot be reconsidered as part of this Reserved Matters submission. However, for completeness, it is noted that the site is, in any event, allocated for residential development in the Calderdale Local Plan as allocation LP1425: land south of Phoebe Lane, Siddal, with an indicative capacity of 105 dwellings.

### **Assessment of the Reserved Matters**

For the reasons previously set out, the assessment of this application is limited to layout, scale, appearance and landscaping. In this regard, Policy BT1 of the CLP refers to the requirement to secure high quality, inclusive design and demonstrate 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. Aesthetics comprise a range of factors including height, massing, scale, form, siting and materials. This approach is reflected in guidance at Paragraph 135 of 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.

Furthermore, Policy BT3 of the CLP advises, amongst other matters, that the landscaping aspects of a development proposal will be required to form an integral part of the design and should consider providing opportunities for possible areas for local food production, including the potential for the use of fruiting trees and shrubs and also, that landscaping schemes should ensure that new development integrates appropriately into its surroundings, contributes to the character of the area, and enhances local biodiversity.

It is also noted that the site lies within the Calder Settled Valleys 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. The proposal should seek 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.

## **Layout**

*‘The way in which buildings, routes and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development’*

The illustrative scheme submitted as part of the outline planning application, which was indicative only and did not form part of the approved plans, suggested the clearance of the site and the introduction of 5 rows of terraces, running mainly east-west across the site with one terrace positioned north-south. It did not clearly detail how parking would be addressed.

On receipt of the Reserved Matters application, practical consideration was given to the key factors that would influence the site layout, namely:

- The historical value of existing buildings/structures on site;
- The site’s coal mining history;
- Biodiversity considerations.

Starting with the impact of heritage considerations, as part of the Reserved Matters, a Built Heritage Statement of Significance was submitted. This noted that the site was historically associated with 18th and 19th century brick works. In reviewing the historic mapping record, it is evident that the majority of buildings and structures associated with the late 19th and early 20th century works complex have been demolished. Much of the ground falling within the former quarry basin has been backfilled and is now overgrown, although building slabs and foundations remain evident. A single chimney is retained to the east side of the lane, which is considered to date to the early 1920s. The 1920s works range, likely originally built as a forge, with an associated chimney, also still exists. The Statement notes that this forge building retains a degree of architectural interest with the plan form and scale of the original construction evident. The position of original openings remain legible in the retained brick arched surrounds. It is also evidence of the site’s former industrial activity.

The Built Heritage Statement concludes that the visual inter-relationship of the retained building with the chimney structure is notable, and they have some prominence in views from Siddal Top Lane in the approaches from the east and west. They provide contextual evidence of the extent of the original complex and illustrate its historical industrial use. Retained sections of original boundary walling and cobbled setts along the Lane similarly evidence historic setting, albeit this evidence is now highly fragmentary. It concludes that the building and adjoining chimney hold a degree of architectural and historic interest in the local context, sufficient to be regarded as non-designated heritage assets. Other remaining structures are somewhat isolated following demolition of associated works and lack the context that would illustrate their past use and function.

Whilst Officers initially sought to retain all chimneys on site, the findings of the Heritage Statement are acknowledged. Given that the original outline indicated the removal of all existing buildings/structures from the site, it is considered a positive that the former forge building would be retained and converted, and its associated chimney would also be kept. Its form would be modified with the removal of later additions. The retention and conversion the forge to apartments has influenced the layout of the section to the west of Siddal Top Lane comprising a row of terraced dwellings opposite it for almost the length of the site, and a second terrace adjacent to the lane, served by a cul-de-sac.

This layout has also been extensively influenced by biodiversity considerations and the need to provide suitable off-sets/exclusion zones from protected species just beyond the red line boundary. It also ensures that no development would affect the groups of trees protected under a Tree Preservation Order to the rear and south of the houses on Keswick Close. There have been extensive discussions with the Council; s Ecologist in the course of this Reserved Matters application and it is notable that this development would deliver a biodiversity net gain of 24.9%, which weighs considerably in its favour.

On the eastern side of Siddal Top Lane, the layout has been shaped in part by topography and also by the retention of some of the lowland mixed deciduous woodland and an existing pond to the north-eastern edge, which is to be retained. It would consist of a row of terraces that respond to the orientation of Siddal Top Lane. Consideration has been given to minimising the prominence of the private car from this part of the development, given that it fronts a key by-way route along the Lane, with parking provided in courts to the rear instead. Behind the front row of houses would be a courtyard arrangement of terraces around a central area of open space. Parking would again be provided in a shared arrangement. The public footpath that runs eastward from Siddal Top Lane towards Coal Pit Lane (09/703/1) would be retained as a through route.

In committing to a layout, the coal mining legacy of the site has been considered and the Coal Authority has confirmed that it has no objection to the layout now proposed. Similarly, Highways has confirmed that the layout is acceptable with regard to the manoeuvring of refuse vehicles and the parking provision across the site. It would also deliver a range of 1-bed, 2-bed and 3-bed units, which would appropriately contribute to housing mix.

In terms of the way in which the buildings would be situated and orientated in relation to each other and to buildings and spaces outside the development, an assessment of the proposal on the living conditions of existing residents is set out below but in broad terms, the proposed layout logically follows the orientation of Siddal Top Lane, with development being either side. The relationship between the proposed houses would ensure an adequate degree of separation between them, whilst also providing natural surveillance. Whilst the apartments would be reliant on the shared amenity space within the site, each of the dwellings would benefit from private gardens complemented by general landscaping and tree planting along the main thoroughfare.

Taking all these factors into account it is considered that the proposed layout would deliver a sufficiently high-quality development that relates appropriately to the site's context, and it would accord with the requirements of Policy BT1 and guidance with the Framework.

## **Scale**

*'The height, width and length of each building proposed within the development in relation to its surroundings.'*

Within the immediate vicinity of the site, the prevailing scale of development is three storeys, including those at Siddal View, the houses rising up the hillside on Phoebe Lane, on Bramble Close and those running along Keswick Close. Elsewhere, they are typically split level two and three storey houses such as those on Blackberry Way, interspersed with more traditional two storey houses, such as those on the west side of Siddal Lane. For the most part, being constructed in quite long groups of terraces, the more recently constructed houses closest to the application site form reasonably long and consistent blocks of development running along the hillside.

The scale of the proposed development would be as follows:

Converted Forge Building: Two levels of accommodation;

House Type 1: 2.5 storeys (Two storeys with accommodation within the roof space).

House Type 2: 2 storeys

This is a significant revision from the original submission, which proposed a solid four storey block of apartments and the remaining dwellings being three storeys with a ground floor garage as exists elsewhere in the area. The scale of development now proposed would typically be lower than its surroundings but equally, more appropriate given the elevated and prominent position of the site at the top of Phoebe Lane. The proposal is therefore considered to be acceptable in scale, in accordance with Policy BT1.

### **Appearance**

*The aspects of a building or place within the development which determine the visual impression of the building or place makes, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture.*

Policy BT1 confirms 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. The appearance of the immediate surrounding area, and particularly the houses on the approach to the site from Phoebe Lane, is reasonably modest and plain in appearance, constituting mainly artificial stone and buff brick houses with primarily white plastic windows and typically with garage doors at ground floor and a reasonably vertical form.

The approach to the new development is not dissimilar. The two new house types would be of a simple design, which is consistent with the surroundings. They would be constructed in buff brick with a cement roof slate (final materials to be agreed by condition). The punched window openings would be set in within a window reveal to provide a degree of shadowing to the front elevation. This detail would be subject to a planning condition. To the front elevation, a main linear window would provide a degree of verticality to the appearance of the house with a projecting porch providing both further internal accommodation and an additional detail.

The conversion of the former forge building would be simply treated with the introduction of regular window openings. Again, these would require a window reveal to ensure a sufficient level of detail, which would be conditioned. Further details of the window frame and fenestration pattern will also be required by condition.

Overall, whilst acknowledging that the architectural approach to the appearance of the buildings is reasonably plain and minimal in approach, it is not inappropriate within this housing market area, and it does reflect the material and unfussy design of its surroundings but with a somewhat contemporary approach. On balance, the appearance of the buildings is considered to sufficiently respect the character and appearance of existing buildings and surroundings and would, within this context, deliver a sufficiently high-quality design in accordance with Policy BT1.

## **Landscaping**

*The treatment of land (other than buildings) for the purpose of enhancing or protecting the amenities of the site and the area in which it is situated.*

The landscaping treatment of the site has broadly been designed to respond to the following:

1. The retention of existing planting as far as practicable.
2. Protection of the area of trees covered by a Tree Preservation Order(s).
3. The introduction of tree lined roads and spaces as far as practicable;
4. Biodiversity considerations and ecological enhancements.

As a consequence of the development, it would be necessary to remove some areas of woodland that presently exist on the site. This was accepted as part of the outline permission with the Committee Report stating, at that time, that a number of trees have been identified for removal to facilitate the development. Even at that time, the Tree Officer noted that many of the trees were largely multi stemmed and raised no objection to their removal. The area of TPO trees immediately adjacent to the rear of properties on Keswick Close and to the south of that would be unaffected.

As part of the Reserved Matters application, an Arboricultural Impact Assessment (AIA) has been submitted along with a Landscape Masterplan and soft landscape scheme. It is clear that the scheme would require a significant amount of tree removal to facilitate the development. This includes the removal of the following 6 entire groups of trees and a single tree noted in the AIA:

- Tree T1 (sycamore)
- Group G3 (small group of 5 trees – mixed including sycamore and silver birch)
- Group G5 (very closely spaced group of circa 30 trees dominated by semi-mature goat willow)
- Group G6 (very closely spaced group of circa 50-100 trees again dominated by semi-mature goat willow and dense young regenerating trees to the edges – poor ground conditions), G9 (closely spaced group of circa 20 trees – mainly sycamore and goat willow)
- Group G11 (closely spaced group of circa 3 sycamore) and;
- Group G12 (closely spaced group of approximately six goat willow/sycamores).

Of these, T1 (sycamore) and G11 are identified to be of moderate quality whilst the remainder of low quality with G3 identified as needed removal regardless of development.

It also identifies the need for the partial removal of two woodlands and five groups:

Woodland W1 (woodland belt of sycamore, goat willow, whitebeam, silver birch and elder)  
Woodland W2 (woodland belt of sycamore, goat willow, silver birch, beech, ash and hawthorn + areas of Japanese knotweed)

Group G1 (silver birch, horse chestnut, goat willow etc)

Group G2 (silver birth, goat willow, ash, norway maple)

Group G4 (oak, goat willow, silver birch, sycamore)

Group G7 (sycamore) and;

Group G10 (sycamore, goat willow, whitebeam, silver birth).

Of these, W2 is identified to be of high quality, G10 and W1 of moderate quality and the remainder of low quality. Notably, the main group of trees W1, to the rear of Keswick Close, would largely be retained. The removal and retentions are summarised in Plan 1 below.



## Plan 1: Development Layout and Tree Removal

Whilst any tree loss is regrettable, in broad terms, the development would require the removal of a relatively small part of one high quality woodland, one moderate quality tree, one moderate quality group, a relatively small part of a moderate quality woodland, part of a second moderate quality group, as well as four low quality groups and parts of four further low-quality groups. These would be necessary to facilitate the development. Conditions would be imposed to ensure no tree removal during bird breeding season unless a competent ecologist had undertaken a bird survey immediately before such works and appropriate measures were in place to protect nesting birds on site.

Moreover, to compensate for the removal of trees, the landscape scheme seeks to include the following:

1. The planting of new trees, shrubs and hedges of suitable species planted in appropriate locations within the site. This includes tree planting along the main access road, within parking areas between the apartments and the new houses, and within the public square/open space within the eastern portion of development.
2. Working towards a 10% biodiversity net gain. The details of net gain will be formally submitted as part of a discharge of condition application pursuant to Condition 5 of the outline planning permission in due course. Nevertheless, as part of this application, the applicant has engaged at length with the Council's ecologist and has supplied a BNG Assessment document setting out how 10% BNG could be achieved, as well as providing a landscape masterplan. Some of the BNG is likely to be adjacent to but outside the red line boundary but within the applicant's ownership, being enhanced to mixed scrub that is suitable for habitat enhancement. It would also include habitat enhancement of the pond on site and of the retained lowland mixed deciduous woodland. Additionally, all new tree planting would be native species. Further biodiversity measures identified in the application include the installation of 44 bird boxes

comprising a mix of standard boxes and those designed specifically for sparrows, swifts and starlings, bat roosting boxes within each new house, a requirement for hedgehog boxes and hedgehog access in boundary fences.

In terms of hard landscaping, it is considered that the cobbled track of Siddal Top Lane should be retained as far as practicable. Other surfacing materials will be secured by means of a planning condition with an intention to avoid large areas of black tarmac, subject to approval with Section 38 (highway adoptions). A condition will also be required with regard to lighting details, in the interest of biodiversity protection to minimise light spill.

On balance, taking into account that the site has outline planning permission for up to 105 dwellings and any development would necessitate removal of sections of existing trees and woodland on the site, the proposed landscape scheme is considered to be sufficient to ensure that it would integrate appropriately into its surroundings. Whilst it does not specifically provide opportunities for local food production per se, it does retain some of the most significant habitats, and particularly the band of woodland immediately to the rear of Keswick Close, introduce new areas of native planting that would contribute to the character of the area and enhance local biodiversity. It would therefore sufficiently enhance the character and qualities of the landscape area within the context of a new development. For these reasons, it is considered to comply with the requirements of Policies BT3 and GN4 of the CLP.

### **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 row of new terraces closest to the existing properties on Keswick Close would be between 43 metres to 52 metres from the rear elevations of these existing houses. They would also be at a higher level that they would look over the top of these properties. Furthermore, the mature band of woodland to the rear of Keswick Close would mostly be retained. Taking these factors together, it is concluded that the proposal would not result in harm to the living conditions of existing occupiers.

Internally, within the site, the spacing between dwellings is considered sufficient to protect the living conditions of future occupiers. The houses would have their own gardens and there is a small area of public open space within the centre of the site for all occupiers to utilise. Taking all these matters together, the proposal is considered to comply with Policy BT2 of the CLP.

### **Response to Representations**

As set out above, this application seeks only to consider matters of layout, appearance, scale and landscaping. However, the majority of objections to this application relate to the principle of residential development and the impacts associated with such development. This has already been established by the outline planning permission and cannot be reconsidered as part of this proposal. It is recognised that it can be difficult for the general public to understand the complexities of outline planning approvals and the subsequent Reserved Matters, and the concerns of residents are fully appreciated. For that reason, a brief response to the concerns raised is set out below:



## Highway Impact

The outline planning application was supported by a Transport Assessment, which fully considered the traffic impact of the site for up to 130 dwellings. This indicated a traffic generation of 18 arrivals and 93 departures in the morning peak and 77 arrivals and 39 departures in the evening peak. It assumed that 50% of the proposed development traffic might choose to use the Phoebe Lane junction with the rest using the Whitegate / Whitegate Road junction. This would add 55 and 58 vehicles to the flows on Phoebe Lane at its junction with Oxford Lane / Whitegate Road which might be significant in percentage terms but in quantum, the increase would be quite low and deemed not significant (about one extra vehicle per minute). The proposed development would actually deliver less, being below the 130 dwelling threshold considered in the TA.

The traffic impact was therefore fully assessed during the outline planning application and was set out in the Committee Report at that time. Amongst other matters, the Committee Report confirmed that Phoebe Lane would be able to accommodate the additional traffic that would be generated by the proposals. The impact on the development on Whitegate would not be acceptable but this would be addressed by the requirement for a scheme to restrict traffic movements between Phoebe Lane and Siddal Top Lane (Condition 9 of 16/00870/OUT). Capacity assessments of the local road network indicated that there would be a minimal traffic impact in terms of additional queuing and delay. The refuse team were also consulted at that time and advised that whilst their vehicles do struggle in wintry conditions on Phoebe Lane when there is snow or ice, this applies to many residential areas in Calderdale for a few days each year. It was not a reason to withhold permission. This also applies to the access for vehicles into the site.

So, whilst the concerns of residents about the additional traffic generated by the development are noted and understood, it is a matter that has already been assessed and accepted as part of the previous outline planning permission, which cannot be reconsidered now. A construction management plan condition is proposed as part of this application to ensure, amongst other matters, that the access roads are kept clear of mud and dirt and consideration is given to the living conditions of surrounding residents during the construction process.

## Ground conditions

As part of the outline planning application a Phase 1 Ground Conditions report was submitted. It acknowledged the site's history as the Cinder Hill Fire Clay Works, as well as the mining history. The report recognises the potential for contamination including from the historic landfill use and contamination from the spoil from the aluminium works with the risk to the site considered to be high. The Phase 1 report identified a number of recommendations, including for trial pits to be taken and samples analysed for contamination testing and the testing of clay soils should they be encountered. These requirements were essentially formulated into Condition 2 of the outline permission:

*Prior to the development commencing: 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.*

Whilst the concerns of local residents about disturbing the site are clearly understandable, it is not within the scope of a Reserved Matters to re-consider matters of principle, such as ground contamination. Nevertheless, it is clear that ground conditions have been fully considered and the recommendations of the Phase 1 report will need to be addressed within the Phase 2 report to be considered as part of a future discharge of condition application prior to works commencing.

### Infrastructure and Affordable Housing

As above, it is not within the scope of a Reserved Matters application to re-consider matters of principle. It was determined as part of the outline planning approval that a contribution towards education and affordable housing could not be secured. This is not a matter that can be revisited as part of a Reserved Matters approval. Furthermore, in terms of education, the Council's Education Services team have nevertheless advised that even if this scheme had come in as a new full application, an education contribution would not have been sought at this time as there are surplus school places in the area.

Turning to the impact on doctors and dentists, the Council is not the delivery or funding agency for GP surgeries / primary care facilities or dental practices. It is for the individual GP practices / Primary Care Network, the Clinical Commissioning Group (CCG) and NHS Estates Delivery Unit to decide how future primary health care provision should be configured and delivered. It is therefore not a matter that can be addressed through the planning process.

### Flood Risk

Again, this is a matter that was considered as part of the outline planning permission as that application was supported by a Flood Risk Assessment and a Drainage Strategy. The Committee Report confirmed that the applicant proposes to connect to the existing drainage system and a condition would be imposed to ensure the drainage details are submitted and approved before work commences on site. These details are required in accordance with Condition 3 of 16/00870/OUT.

### Ecological considerations

As set out in the report above, Condition 5 of the outline planning permission requires a scheme for biodiversity mitigation and enhancement to be discharged prior to works commencing on site. This will be submitted as a separate discharge of condition application in due course. Nevertheless, as set out in the report above, biodiversity protection and enhancement has been considered in developing the layout of the residential scheme. There will inevitably be some disruption to the site, but the applicant has sufficiently demonstrated no harm to protected species as well as the enhancement of biodiversity. These measures will be secured by condition along with a condition for a landscape management plan for the areas of enhancement.

### Layout, living conditions and visual impact

The scheme no longer proposes a four-storey block as originally sought. It has been amended as set out above, to retain and convert the existing forge building and build houses that would be a maximum of 2.5 storeys in scale.

Whilst it is acknowledged that this site is the starting point for people walking through the wood lined country lanes up to the footpaths across the hilltops, it also benefits from outline planning permission as well as being an allocated housing site. The footpath connections would all be retained, and the site would include areas of new planting and soft landscaping as set out in the report above.

It is not considered that existing dwellings would be overlooked for the reasons set out in the report above, having regard to the standards set out in Annex 2 of the CLP.

### Other matters

Even if residential development was refused in the 1990s, the site now benefits from outline planning permission for up to 105 dwellings.

Whilst it is currently undeveloped, much of it is not publicly accessible and on-site visits, areas of fly tipping were observed that would not make it an attractive outdoor area for people to enjoy. As noted above, the public footpaths through the site will be retained with strong levels of natural surveillance. It would also include a small area of public open space.

There is no evidence that the requirement for electric vehicle charge points, would require major new works. In any event, this is a matter to be determined under Building Regulations.

The concern that the area does not need any more houses is noted but it is not supported by evidence. As confirmed at Policy SD2 (Housing Requirement) of the Calderdale Local Plan, in order to meet the housing needs of the Borough, the Council will seek to make provision to meet the housing requirement of 14,950 net additional dwellings as a minimum over the Plan period (1 April 2018 to 31 March 2033).

Furthermore, the Council Tax that the Council would receive in the future has no bearing on the determination of this Reserved Matters application, not least because outline planning permission for 105 houses has already been granted.

For clarification, the land does not lie within the Green Belt. It is a part-brownfield/part-greenfield site that is allocated for housing in the CLP.

### Summary

This application submits details of the outstanding Reserved Matters pursuant to Condition 1 of 16/00870/OUT. For the reasons set out above, the details of layout, appearance, scale and landscaping are considered to be acceptable. It would deliver a scheme that would sufficiently maintain the character of the area in layout, appearance, scale and landscaping whilst also providing new homes and sufficiently protecting the living conditions of existing occupiers.

### CONCLUSION

**The proposal is considered to be acceptable subject to conditions. The recommendation to GRANT RESERVED MATTERS 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  
Director of Regeneration and Strategy

Date: For 12 March 2023

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## 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 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.
2. No development (excluding demolition and site clearance) shall commence until details of existing and proposed site levels (including cross-sections to demonstrate any change in ground levels) have been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in strict accordance with the agreed site levels and thereafter retained.
3. No development shall commence on site until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following details:
  - a) Description of works, equipment and storage (including contractor parking and materials storage);
  - b) Details of any temporary hoarding and fencing;
  - c) Routing and signage for construction traffic;
  - d) Details of measures to keep mud and dirt off the highway, particularly taking into account the topography of Phoebe Lane;
  - e) Controls on the arrival and departure times of construction vehicles;
  - f) Hours of working;
  - g) Details of vibration management;
  - h) Control of emissions;
  - i) Details of engagement with the code of Considerate Practice;
  - j) Details of community engagement arrangements. This should include a mechanism for residents to liaise directly with the site manager/neighbourhood liaison during the site clearance and construction period; I
  - k) Details of how the neighbourhood liaison will be publicised to local residents;
  - l) Monitoring and reporting procedures
  - m) Demolition and waste management
  - n) Site clearance and waste management plan

The development shall then be implemented in accordance with the relevant CEMP, which shall be made publicly available for the lifetime of the construction phase of the development in accordance with the approved method of publicity.

4. No above ground works pursuant to the new dwellings shall commence until details of all external materials, including walling, roofing and fenestration materials, as well as details of hard surfacing materials throughout the development 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 approved plans, no above ground works shall commence pursuant to the new dwellings, nor works to convert the existing forge building, until large scale details (1:20) of windows reveals (depth) and the pattern and style of the fenestration treatment, as well as a window strategy for the size and position of windows to the converted forge building, has been submitted to and approved in writing by the Local Planning Authority. The window reveals shall be a minimum of 75mm and should aim to achieve a minimum of 100mm. The development shall then be implemented in accordance with the approved details and thereafter retained.
6. Notwithstanding the requirements of Condition 2 above, the existing cobbled surface to Siddal Top Lane within the red line boundary of this application shall be retained and/or repaired as required. In the event that its retention is neither viable nor practical, a suitable justification shall be required for their removal and details of an alternative material shall be provided. The development shall then be implemented in accordance with the approved details.
7. 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. Boundaries shall also include the hedgehog holes detailed on the Landscape Masterplan Plan GLY0025 03D received 24 January 2024. The boundaries shall then be constructed in accordance with the approved details and retained thereafter.
8. No external lighting shall be installed within the site until details of such lighting, including the location and design of lighting and a light spill plan, has been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall then be implemented in accordance with the approved details and thereafter retained.
9. 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.
10. 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.
11. The habitat enhancements set out within the Biodiversity Net Gain Assessment prepared by PBA applied ecology dated 23 January 2024, as well as the ecological enhancements detailed on the Landscape Masterplan Plan GLY0025 03D received 24 January 2024 shall all be implemented prior to the construction of the final dwelling hereby approved. Written and photographic confirmation of their installation shall be provided within one month of first occupation of the final unit within the site and the enhancements shall thereafter be retained.

12. Prior to the commencement of above ground works (and excluding demolition, ground works and site preparation works), a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

13. The landscape scheme hereby approved shall be implemented prior to the development being first brought into use (i.e. first occupation of any dwelling) or within an alternative timescale to be first approved in writing by the Local Planning Authority and no later than the first planting season following completion of the development. Thereafter the landscaped areas shall be retained, and they shall be cultivated and maintained for a period of 5 years from the date of implementation. Any plant failures within that five-year period shall be replaced with the same species/size as the approved landscape scheme unless otherwise approved by the Local Planning Authority.

### **Reasons**

- 1. 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
- 2. In the interests of securing a high-quality development and having regard to the living conditions of surrounding residential occupiers in accordance with Policies BT1 and BT2 of the Calderdale Local Plan.
- 3. To minimise any impact on the living conditions of surrounding residential occupiers with regard to noise and disturbance during the construction period with regard to Policy EN1 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. To ensure a satisfactory appearance in accordance with Policy BT1 of the Calderdale Local Plan and guidance within the National Planning Policy Framework.

6. To ensure a satisfactory appearance in accordance with Policy BT1 of the Calderdale Local Plan and guidance within the National Planning Policy Framework.
  7. In the interests of visual amenity and biodiversity and to ensure compliance with Policies BT1 and GN3 of the Calderdale Local Plan
  8. In the interests of visual amenity and the protection and enhancement of protected species and biodiversity generally, to accord with Policies BT1 and GN3 of the Calderdale Local Plan
  9. To protect the living conditions of future occupiers given the reasonably modest size of dwellings and the appearance of the site, in accordance with Policies BT1 and BT2 of the Calderdale Local Plan and guidance within the Framework
  10. 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.
  11. 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.
  12. To ensure improvements to the biodiversity of the site are secured for the long-term in accordance with Policy GN3 of the Calderdale Local Plan.
  13. To ensure the appropriate implementation of the approved landscape scheme to ensure compliance with Policy BT3 of the Calderdale Local Plan.
-

Time Not Before: 1400 - 02

Application No: **23/00987/FUL**

Ward: **Ryburn**

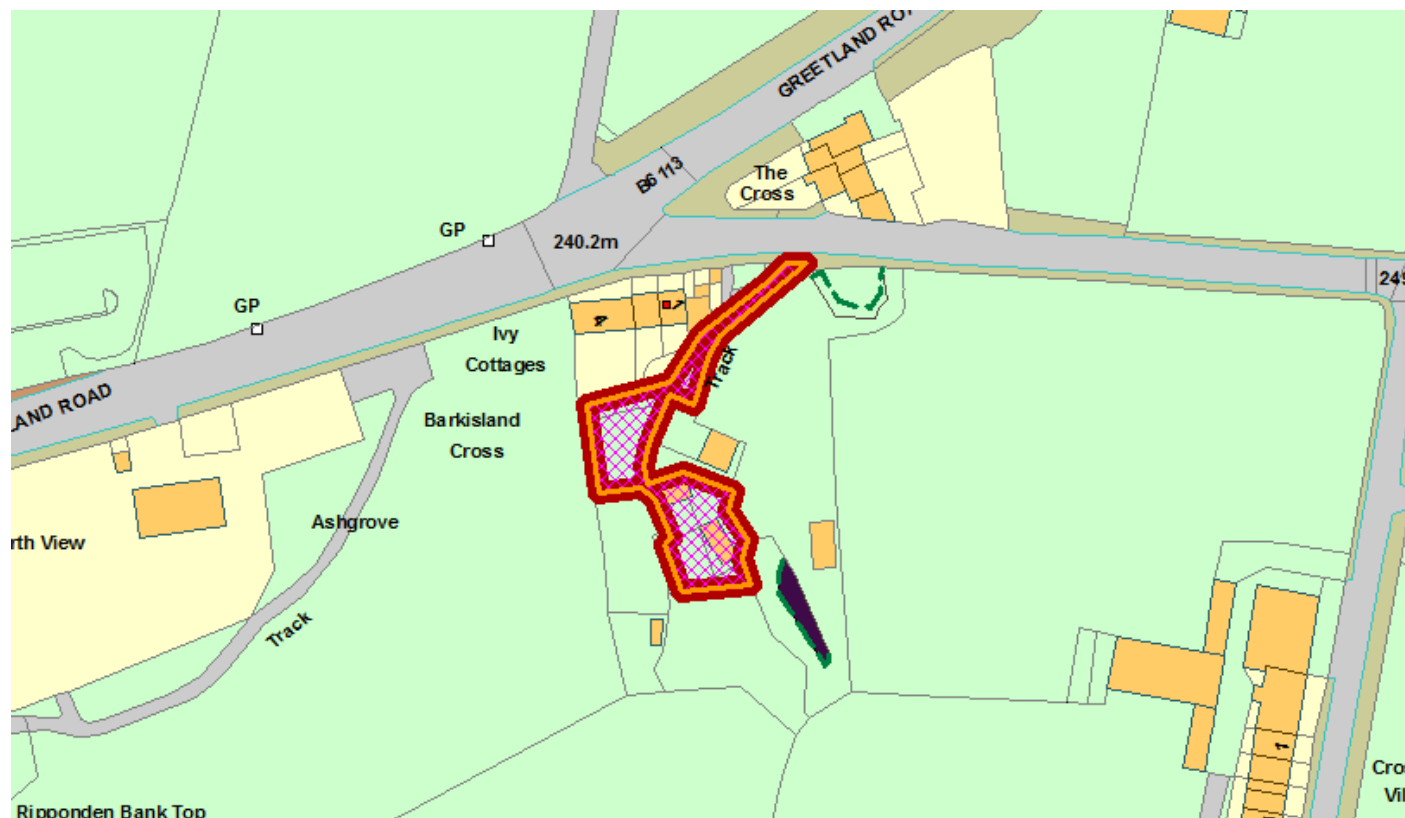
Area Team: **South Team**

Proposal:

**Demolition of existing buildings to facilitate development of one detached dwelling**

Location:

**1 Ivy Cottages Stainland Road Barkisland Sowerby Bridge Calderdale  
HX4 0DQ**



Applicant:

**Mr B Geraghty**

Recommendation: **REFUSE**

Parish Council Representations:

Yes

Representations:

Yes

Departure from Development Plan:

No

Consultations:

Ripponden Parish Council  
Highways Section

## **Description of Site and Proposal**

The application site extends to 0.01 hectares comprising land to the rear of 1-4 Ivy Cottages, a stone terrace fronting Stainland Road at its junction with Greetland Road. The red line boundary of the site is almost a figure of 8 shape. It also includes a narrow access running to the rear of the cottages from Stainland Road, which is initially at a reasonably steep gradient. One part of the site is an area of open land enclosed by stone walls. The other, at the end of the track and beyond an existing garage serving one of the Cottages, is occupied by three structures of varying size and quality. These comprise two main outbuildings – a square structure close to the end of the track and a rectangular building within the site. These are both single storey with a mono-pitch roof and constructed in a variety of materials including stone and pebbledash. A timber ‘shed’ that appears to be a dog kennel is also on the site. The remainder of the land is open and criss-crossed by stone walls. The area surrounding the site is predominantly open and rural in character.

This is a full planning application made by the occupiers of 1 Ivy Cottages. It seeks to clear the three single structures from the southern section of the site and construct a 3-bedroom dormer bungalow with two parking spaces and a garden. The other part of the site within the red line boundary would be subject to a change of use to also become a garden. The plans indicate that the bungalow would be constructed in natural stone walling with an artificial blue slate roof and grey aluminium windows. Access to the dwelling would be via the existing track onto Stainland Road.

**The application has been brought to the Planning Committee because a written request, giving planning reasons, has been made by Ward Councillor Thornber. Councillor Thornber requests that it be brought before Committee in the event of a refusal because, in his view, the proposed dwelling would be built on previously developed land. He considers that there would be no adverse effect on the setting or the surrounding area, and no impact on the openness of the Green Belt. Councillor Thornber also considers that the access to the proposed dwelling is existing, and it would not create any more vehicle movements than already exist.**

## **Relevant Planning History**

**21/01123/FUL:** Demolition of existing buildings to facilitate development of one x 3 bed detached dwelling

Refused: 14 July 2023

It was refused under Delegated Authority for the following reasons:

*1. The proposed development falls within the Special Landscape Area in the Calderdale Local Plan. The proposed dormer bungalow would result in the development of land within a rural, countryside location to the detriment of the landscape quality and visual amenity of the open countryside. The application is therefore contrary to policies GN4 (Development within the Special Landscape Area) and BT1 (High Quality, Inclusive Design) of the Calderdale Local Plan and Sections 15 (Conserving and enhancing the natural environment) of the National Planning Policy Framework.*

*2. The site lies within the approved Green Belt in the Calderdale Local Plan wherein there is a presumption against development for purposes other than those categories specified in policy GB1 (Green Belt) and paragraphs 149 and 150 of Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework in order to assist in safeguarding the countryside from encroachment; and to retain the openness of the Green Belt. The proposal would encroach on to land not considered to be previously developed and would result in having a greater impact on the openness of the Green Belt, as well as detracting from the visual amenity of the Green Belt by reason of siting, domestic paraphernalia associated with the dwelling, and it would lead to highway safety and*



*sustainability concerns that could not be effectively mitigated against. Furthermore, no very special circumstances have been established which justify an exception being made. The proposal would therefore result in inappropriate development in the Green Belt which by definition is harmful and would be contrary to policy GB1 (Green Belt) of the Calderdale Local Plan and section 13 (Protecting Green Belt Land) of the National Planning Policy Framework.*

*3. The proposals are not acceptable on highway safety grounds. It is considered that the access track is not wide enough for two vehicles to pass which will result in stationary or reversing vehicles on the highway whenever vehicles travelling in opposing directions meet. The access meets Stainland Road at an acute angle and has substandard visibility. The proposals would result in the intensification of a substandard access which gives rise to safety concerns, as such, would be contrary to policies BT4 of the Calderdale Local Plan (The Design and Layout of Highways and Accesses).*

The application now under consideration is the same as the refused scheme above. The applicant has not sought to address any of the concerns set out in the three reasons for refusal nor to submit an appeal against the decision. The agent advised that it was his understanding that the applicant had secured Ward Councillor support for the scheme, and it was effectively resubmitted to seek a referral to planning committee for a decision.

### **Key Policy Context:**

The most relevant planning policies are set out below:

<b>Calderdale Local Plan (CLP)</b>	Green Belt Landscape Character Area – Blackwood Common Special Landscape Area Sandstone Mineral Safeguarding Area
<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 Highway Design and Accesses Policy IM5 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 HE1 Historic Environment Policy MS2 – Minerals Safeguarding
<b>National Planning Policy Framework December 2023</b>	5. Delivering a sufficient supply of homes 9. Promoting sustainable transport 12. Achieving well-designed places 15. 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 (1<sup>st</sup> December 2023) and a neighbour notification letter (ended 21 November 2023).

Two representations have been received. One is an objection from 2 Ivy Cottages whilst the other is a letter in support from the occupiers of 4 Ivy Cottages.

The letter in support highlights the following:

- It would be an inconspicuous place and not impact on other properties.
- The occupiers of No 4 own the lane that would provide the access to the site. No. 1 has the right to use it for access, No. 2 does not. However, it has, over time, been used by vans, lorries, pick-ups, trucks as well as their own cars accessing their garages which lie adjacent to the site.
- Reference is made to many collisions at a road junction, which is correct, but it is not at this road junction. These are about 50 metres down the hill where Stainland Rd meets Greetland Rd. The owners would be receptive to the idea of putting up a mirror at the junction if it were required.
- The lane is approx. 50 yds long and clearly visible when driving along it. There is and would continue to be a large turning and parking area at the far end of the lane. The lane widens out somewhat at the entrance from the main road
- Four buses an hour pass the site going to West Vale, Ripponden, Hebden Bridge, Halifax and Huddersfield. It is also within easy walking distance of a Post Office, a general shop, a school, a church, a cricket club and a pub.
- Reference to refuse vehicles not being able to access the lane are irrelevant because the onus will be on the resident to take their refuse to an accessible place for collection. Similarly, whilst an ambulance may find the lane narrow and have to encroach on the grass verge, a paramedic response vehicle would have no problem.

The objection letter from No.2 highlights the following concern:

- The access road to the location is not suitable. At present there is little traffic on this lane due to the current owner occupiers not utilising the existing land/buildings present on the lane. Should the ownership of those properties that have access and in fact own the lane change then the traffic on the lane is likely to increase.
- The road onto the main Stainland Road is currently not suitable and the road itself is already subject to numerous road traffic collisions.
- A further dwelling would likely increase the traffic and potential for collisions unless significant work was undertaken to eliminate this risk.

## **Statutory Consultees**

**Highways:** The application fails to conform to the requirements of Policy BT4 of the CLP for the following reasons:

- The existing is unsuitable for further intensification;
- The appropriate visibility splay on Stainland Road is unachievable;
- The access track is not wide enough for two vehicles to pass which will result in stationary or reversing vehicles on the highway whenever vehicles travelling in opposing directions meet.
- The approach to the highway is at an acute angle. Ideally, vehicles should address the junction at a right angle to the road in order to maximise any available visibility splay.

- The access road and turning areas would be unsuitable for a refuse vehicle to service the individual properties. It remains the responsibility of the occupiers to present the refuse bins in a suitable position as indicated on any proposed plans.

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

Ripponden Parish Council object to the application on the grounds of access and egress and being green belt development.

### **Assessment of Proposal**

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

The NPPF has a presumption in favour of sustainable development, set out at Paragraph 11(d) 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. Within the CLP, the site falls within the Green Belt.

Footnote 8 to Paragraph 11(d) of the NPPF highlights the circumstances where policies that are most important for determining the application are out-of-date. It includes a situation where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years. The most recent Housing Delivery Test (HDT) figures for 2022 were published by the Government on 19 December 2023. These are an annual measurement of housing delivery for the Borough looking back over the previous 3 financial years - 2019/20, 2020/21 and 2021/22.

These years all pre-date the adoption of the CLP. Nevertheless, in accordance with the HDT results, the delivery of housing was below the 75% requirement for that period, with the outcome calculated at 49%. In such circumstances, there is a presumption in favour of sustainable development and the policies which are most important for determining the application should be considered out-of-date. Consequently, the so called 'tilted balance' would normally apply where the balancing exercise should be weighted towards granting permission. However, 11(d) clarifies that to be the case unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 confirms that this includes land designated as Green Belt, which is relevant to this decision. In this circumstance, the contribution of any housing would therefore be neutral in any tilted balance.

## **Principle of Development**

The application site lies within the Green Belt. The NPPF confirms at Paragraph 142 that the Government attaches great importance to Green Belts and 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.

Within the Calderdale Local Plan, Policy GB1 confirms that within the Green Belt, the construction of new buildings is inappropriate development except in 13 specific circumstances. Of these, two are relevant to the assessment of this application:

*GB1(I)(f): partial or complete redevelopment of previously developed land which would: not have a greater impact on the openness of the Green Belt than the existing development.*

*GB (II) (e): Material changes of use in land provided the development would preserve its openness and not conflict with the purposes of including land within Green Belt.*

This reflects guidance at Paragraphs 154(g) and 155(e) respectively of the NPPF (2023).

*Partial or complete redevelopment of previously developed land*

Turning to the assessment of the development against GB1(I)(f): partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.

The Framework defines previously developed land as:

*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; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*

The history of the site is unclear with no previous planning history or permissions relating to the structures already built. From observations on site, two of the three structures can be considered as permanent. These appear to have been on site for some time and are evidently used by the applicants for purposes ancillary to their main dwelling. The third timber structure appears to be used as a dog kennel. There is extensive 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. The timber structure is reasonably limited in size, comprising a small element of enclosure with most of it being open and fenced. It does not have the appearance of a permanent structure but rather, the appearance of a kennel that would be moveable. It is also unclear whether it is physically attached to the ground. For these reasons it is presently excluded from the definition of a permanent structure.

Nevertheless, being outside a built-up area, the land upon which the two main structures are sited can be considered to be previously developed, although this constitutes only a part of the red line boundary. The remaining area that is presently unused and proposed as an additional garden would not be considered as such and remains as greenfield land. This is considered further below.

However, in relation to the element of previously developed land, as above, the assessment is whether the construction of the proposed dormer bungalow and associated parking and garden would have a greater impact on the openness of the Green Belt than the existing development comprising the two single storey outbuildings and their curtilage. Openness is broadly considered to imply an absence of development and it has both visual and spatial aspects to it.

The applicant has not provided existing elevations as requested. Only the notated size and height of the existing buildings has been given. The assessment below is based upon the information available to officers.

**The proposed dormer bungalow would extend to a footprint of approximately 104m<sup>2</sup> (11.3m wide x 9.2m deep). It would measure approximately 3 metres to eaves level and 6.9 metres to ridge level. In volume it would extend to approximately 514m<sup>3</sup>.**

**The two single storey buildings have a footprint of 37.3m<sup>2</sup> and 29.9m<sup>2</sup> respectively. Being single storey with a mono-pitch roof (and based on an average room height), their volume is approximately 85.85m<sup>3</sup> and 71.77m<sup>3</sup>. This would result in an existing volume on site of 157.62m<sup>3</sup>. Even if the dog kennel were included, this would only add a further 15.8m<sup>3</sup>. The dormer bungalow would clearly have a much greater volume than the existing structures.**

It is therefore considered that **spatially, the proposed dwelling would be noticeably taller in scale (6.9 metres to the ridge vs a maximum outbuilding height of 2.4 metres) and it would be 226% larger overall** (196% should the dog kennel be included) than the existing outbuildings. The replacement dwelling would therefore be noticeably larger than the existing buildings. It would also have a more centralised and prominent position in the centre of the site, rather than the low level and separated existing outbuildings. Whether or not this is visible to the surrounding area is not relevant to the assessment of its Green Belt impact. The policy test is whether it would have a greater impact on the openness of the Green Belt than the existing development. In the view of Officers, taken together, it is considered that this increase in volume and massing would be harmful to openness.

Visually, the creation of a driveway for two vehicles, a garden and the resultant domestic paraphernalia that are typically associated with a dwelling, such as washing lines, outdoor seating and play equipment would further cause harm to openness. Again, lack of visibility from a road is not a defence against openness and the proposal would cause harm to the Green Belt nonetheless. The Framework requires that substantial weight be given to such harm.

For these reasons, the proposed dormer bungalow would have a greater impact on the openness of the Green Belt than the existing outbuildings. It would not meet the exception at Paragraph 154(g) of the NPPF nor at Policy GB1. It would therefore be inappropriate development that should not be approved except in very special circumstances. No very special circumstances have been put forward in this case.

#### *Material changes of use in land*

Material changes in the use of land in the Green Belt is also inappropriate unless they preserve its openness and do not conflict with the purposes of including land within it. In this case, the creation of a new garden creates the further potential for domestic paraphernalia on this part of the site and would represent the urbanising of the countryside. It would, at the very least, fail to safeguard the

countryside from encroachment and this element of the scheme would therefore conflict with the purposes of including land within Green Belt. It would not meet the exception at Paragraph 155(e) of the NPPF nor at Policy GB1. It would also therefore be inappropriate development that should not be approved except in very special circumstances. Again, no very special circumstances have been put forward. This matter is considered further at the conclusion of this report to determine whether there are any other considerations that clearly outweigh the harms identified.

## **Housing Issues**

CLP Policy HS1 establishes that residential development will be supported provided that it is in accordance with specified criteria, including that the development amongst other things creates no environmental, heritage, flood risk, nature conservation or other problems. On this occasion, it is considered that the proposal would not enhance the immediate setting due to the visual and openness impacts set out above. Consequently, the proposal is considered to be inappropriate development. It would be of a noticeably larger scale than the existing outbuildings and, in comparison, especially with the associated garden and domestic paraphernalia, a more permanent and prominent form within the landscape. Given the above, the proposal is not considered to be acceptable in principle and would be contrary to CLP Policy HS1.

## **Design and Landscape Impact**

Policy BT1 of the Local Plan refers to the need to secure inclusive design and demonstrate 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 at Paragraph 135 of 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 site also lies within a Special Landscape Area as defined on the CLP Policies Map. Policy GN4 of the CLP confirms that proposals for development within the Special Landscape Area (SLA) or its setting should be carefully designed to ensure they are in keeping with their location in the SLA in terms of density, height, massing, scale, form, siting and materials. It sets out that proposals for development within or affecting the Special Landscape Area (SLA) will only be supported if the proposal meets one of three criteria, including not adversely affecting the scenic quality of the SLA and protecting and enhancing landscape quality, sense of place and local distinctiveness.

Policy GN4 also confirms that proposals within or affecting the SLA or its setting should be accompanied by a Landscape Impact Assessment setting out how it would protect and enhance the landscape, taking into account the requirements of the policy. This was not submitted with the application but came in subsequently at the request of Officers. Within it, the applicant contends that the main affect would be the replacement of outbuildings, that are spread out on the site, with a single modest sized dormer bungalow constructed in natural materials, which would sit behind the existing row of terraces. Some existing outbuildings around the site would remain in position. Along with the intention that existing dry stone walls and vegetation remain around the perimeter, the applicant considers that any impact on the landscape from the development would be modest and would not have any negative effect.

In assessing the impact, it is noted that the immediate context is rural in character with the closest built form being Ivy Cottages fronting Stainland Road. These are traditional two-storey pitched roof stone dwellings. Opposite the site access are further stone buildings of a traditional appearance at The Cross. Beyond that, the closest buildings are those at Cross Villa, over 75 metres to the south-east, again of traditional stone appearance with a pitched roof and then the terrace of hipped

roof dwellings at the junction of Rishworth Road and Stainland Road, on the edge of Barkisland Village. It is notable that dormer windows in particular are not evident within these buildings.

Within this context, the construction of a dormer bungalow does not, therefore, constitute a contextual response to the character and appearance of existing buildings and the surroundings. Even taking into account that the bungalow would be constructed in natural stone, this does not overcome the concern that it would not be reflective of local context and respond to local distinctiveness. Furthermore, whilst the site is reasonably contained, lack of visibility is not a defence for development that would affect the scenic quality of the SLA in broad terms and it would still fail to protect and enhance the landscape quality, sense of place and local distinctiveness of the area. It is therefore considered that the proposal would be contrary to Policies BT1 and GN4 of the CLP.

### **Landscaping**

Policy BT3 of the Local Plan states that development proposals should be accompanied by schemes that include good quality hard and soft landscaping, which should form an integral part of the design. The application does not include any landscape details per se. However, it is not considered that a refusal against Policy BT3 could be sustained given the scale of the proposal as it would not be unreasonable to condition a landscape scheme for a single dwelling.

Landscape character is also important in this instance because the site lies within the Blackwood Common Landscape Character Area. 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, which includes 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 produced for the Council by LUC in 2016 confirms that the Blackwood Common LCA broadly comprises the elevated landscape, with slopes rising up to moorland and hill summits including Norland Moor and Blackwood Common. It particularly notes a dense network of gritstone walls dividing fields, these distinctive features providing shelter for livestock and valued wildlife habitats. They are also of considerable historical/cultural interest. In terms of built form, it notes a dispersed settlement pattern comprising scattered stone-built barns and farmhouses, with housing developments surrounding the settlements of Ripponden, Sowerby, Beechwood and Rishworth. Views and perceptual qualities include open, upland fringe landscape character with long views, often conveying a relative sense of remoteness and isolation (especially when compared with the settled valleys nearby).

In this case, the proposed dwelling would be elevated above Stainland Road, but it would be in a reasonably secluded location, being set back from the road and within an area that may have been historically quarried. It would be of such a limited scale that it would not be sufficiently harmful to the qualities of the Blackwood Common LCA to justify a refusal on this point. It is therefore considered to sufficiently comply with Policy GN4.

### **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. This reflects guidance at Paragraph 135 of the Framework.

In this case, the front elevation of the proposed dwelling would be over 35 metres from the rear elevation of Ivy Cottages at the closest point. Even taking into account a change in levels, this would be substantially in excess of the recommended minimum separation distance at Annex 2 of 21 metres between main facing windows. It would be even further to any other property. For this reason, the proposal would not harm the privacy of existing occupiers and it would not be contrary to Policy BT2 of the Local Plan or guidance within the Framework.

### **Accessibility and Highways**

Policy IM5 of the CLP seeks to ensure that development supports sustainable travel. This includes, amongst other matters, measures to ensure that development manages the travel demand generated through the appropriate application of parking provision not in excess of that demonstrated to meet the anticipated needs of the development. It also requires development proposals to take account of the hierarchy of road users and consider how the proposed development will support modal choice.

In terms of location, the site would be 0.4 miles to Barkisland Post Office and closer to the Primary School and Park. There is also a bus stop adjacent to the entrance to the site providing a service to Halifax and Brighouse. Whilst highways have raised some concern that the location, whilst close to a bus route, is in a rural area and not convenient for local shops or similar requirements, resulting in a high dependency upon motor vehicles for daily use, it is the view of planning officers that it would be in a reasonably sustainable location in the context of Policy IM5 for the reasons set out. This takes into account guidance within the Framework at Paragraph 109 that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

However, Policy BT4 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. It is also noted that Paragraph 115 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.

The Council's Highways Officer has raised the following concerns about the proposal:

- The existing access, which connects to the proposed parking area, is not wholly within the red line of the application. An amended plan, extending the red line, with a continuous track with access to the proposed parking area would be required (this has subsequently been addressed).
- The existing access which serves the current garages (one of which is to be demolished) is unsuitable for further intensification for the level of use the proposed dwelling would involve.
- Stainland Road is subject to a speed limit of 40mph, dictating a visibility splay of 70m in either direction, from a point 2.4m from the kerb.
- Such a splay is unachievable given the high sided walls and bend in the road.
- The access track is not wide enough for two vehicles to pass which will result in stationary or reversing vehicles on the highway whenever vehicles travelling in opposing directions meet.
- The approach to the highway is at an acute angle, ideally vehicles should address the junction at a right angle to the road in order to maximise any available visibility splay.
- There is no cycle parking indicated.



- The access road and turning areas would be unsuitable for a refuse vehicle to service the individual properties. It remains the responsibility of the occupiers to present the refuse bins in a suitable position as indicated on any proposed plans.

The letter in support of the application indicates that the track has been used for vans, lorries, trucks, as well as their own cars going to their garages and in that time, there has not been a single instance of a bump or crash or any difficulty at the junction with the Main Road. Whilst that may be the case, the introduction of a dwelling at the end of the track would inevitably intensify its use on a daily basis. The applicant has not provided any evidence to indicate that the existing use of the outbuildings generates more traffic than the proposed dwelling or vice versa, particularly as they are in ancillary uses.

For these reasons, it is considered that the proposal would result in the intensification of a track that is unsuitable for such purpose as a result of its width and form and it cannot provide a safe and suitable access onto the highway due to the visibility splay and the acute angle upon which it approaches the highway. Based on the assessment above, it is therefore considered that the proposal would not comply with Policy BT4 of the Calderdale Local Plan, nor with guidance within the Framework

### **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 or be exposed to pollution. 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 189 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 191 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.

In this case, the application is not of a scale that would warrant an Air Quality Impact Assessment (AQIA) or Noise impact Assessment and there are no grounds to refuse it on these matters, having regard to Policies EN1, EN2 and EN3.

Turning to potential contamination, neither Phase 1 nor Phase 2 geo-environmental assessments have been undertaken at this stage. However, in the event that the application had been recommended for approval, this would have been a matter to be addressed by means of a planning condition(s) to satisfy the requirements of Policy EN1 and guidance within the Framework.

The site is also located within a sandstone safeguarding area. Policy MS2 discusses mineral safeguarding areas. However, under the relevant criteria within that policy, even if it was found that sandstone was present, the site is not suitable for the extraction, given that it would cause unacceptable impact on neighbouring uses and local amenity. It is therefore considered that there would be no conflict with Policy MS2.

## **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 and achieves net gains in biodiversity. This application pre-dates the requirement for 10% biodiversity net gain, which will only become mandatory for a scheme of this scale from 2<sup>nd</sup> April 2024 notwithstanding that this scheme would still be required to achieve a net gain.

The application does not include the submission of a Preliminary Ecological Appraisal. Had the application been considered acceptable in principle, a bio-diversity net gain assessment would have been requested. In the event that a positive recommendation had been reached, it would not have been unreasonable, given the scale of the proposal, to impose a condition in this instance requesting a BNG assessment and enhancement proportionate to the scale of development proposed. This would have included a Landscape and Ecological Management Plan (LEMP). Subject to the imposition of such conditions, the application would have sufficiently complied with Policy GN3 of the Local Plan and guidance within the Framework.

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

The National Design Guide states that well-designed places and buildings should conserve natural resources including land, water, energy and materials. Their design should respond to the impacts of climate change by being energy efficient and minimising carbon emissions to meet net zero by 2050.

The Council officially declared a Climate Emergency in February 2019, which 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 priority outcomes in development planning, using sustainable design and construction methods, increasing levels of Renewable and Low Carbon Energy Generation, supporting Sustainable Transport Networks through a reduction in travel demand, traffic growth and congestion and locating development in areas accessible by public transport.

The application does not include any details of the proposal's response to climate change. It is recognised that in terms of building fabric, the dwelling would have to be constructed to current building regulations (June 2023), which means that new homes will be required to produce 31% less CO<sub>2</sub> than was acceptable under the previous Part L of Building Regulations. Moreover, to satisfy the requirements of Policy CC1, in the event of a positive recommendation, it would have been reasonable and necessary to include a pre-commencement condition to require details of how the proposal would contribute to mitigating and adapting to the predicted impacts of climate change. This would have ensured compliance with the requirements of Policy CC1.

## **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, Policy CC2 confirms that Flood Risk Assessments are only required for development proposals over 1 hectare in Flood Zone 1. This site falls below the threshold and consequently, no FRA is required. It also lies outside a Critical Drainage Area such that there are no specific concerns relating to flooding from surface water.

However, Policy CC3 of the CLP 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. The application form confirms that the site would receive water from the mains supply. Foul sewage would be to a septic tank and there would be sufficient land within the site to ensure that it would be an acceptable distance from the house. In the event that the application had been recommended for approval, a condition requiring the submission of drainage details would have been imposed.

Taking all these matters together, in principle, it is therefore considered that a suitable water supply and drainage solution could be achieved for one dwelling in this location, and it would not increase the risk of flooding elsewhere in order to comply with the requirements of Policies CC2 and CC3.

### **Green Belt/Planning Balance**

The proposed dwelling would not fall into any of the exceptions to inappropriate development in the Green Belt set out at Policy GB1 of the CLP and within Paragraphs 154 and 155 Framework. As a result, it would constitute inappropriate development in the Green Belt. In accordance with Paragraph 152 of the Framework, it would therefore be harmful to the Green Belt and substantial weight is attached to this harm. The proposal would also harm the openness of the Green Belt, which is an essential characteristic of these areas, and conflict with reasons for including land within the Green Belt, with particular regard to failing to safeguard the countryside from encroachment. These harms also attract substantial weight.

For the reasons set out above, the proposal would also fail to be reflective of local context nor would it respond to local distinctiveness, thereby also affecting the scenic quality of the SLA contrary to Policies BT1 and GN4 of the CLP, and it would fail to provide a safe and suitable access onto the highway, contrary to Policy BT4 of the CLP. These factors also weigh against the proposal.

It is acknowledged that it would result in the provision of one dwelling. However, the site's location in the Green Belt means that footnote 8 of Paragraph 11(d)(i) applies. Its contribution to housing supply would therefore be a neutral factor. Moreover, there is also now a 5-year housing supply following the recent adoption of the Local Plan and the benefits of one dwelling would, in any event, be minimal.

There would, no doubt, be some social and economic benefits to the scheme. It would be likely to create some employment during construction. Future residents of the dwelling would also provide some additional support to local shops, businesses and community facilities. Nevertheless, given that it would be for one dwelling, these benefits would be very small and attract limited weight.

It is further acknowledged that the proposal would (subject to the imposition of relevant conditions as set out in the report) comply with a number of Local Plan policies, including with regard to drainage, biodiversity, the protection of the living conditions of neighbours and the response to climate change. However, the lack of harm in these respects, being a requirement of local plan policies, is considered to be a neutral factor in any balance.

Overall, it is considered that these matters do not clearly outweigh the very substantial harm to the Green Belt through inappropriate development and harm to its openness, as well as the encroachment into the Green Belt. Consequently, very special circumstances necessary to justify the development do not exist. It is for this reason, along with the other matters set out within the report above, that the application is recommended for refusal.

## **CONCLUSION**

The proposal is not considered to be acceptable. The recommendation to refuse planning permission has been made because the development is not in accordance with Policies GB1, BT1, BT4 and GN4 of the Calderdale Local Plan and guidance within the National Planning Policy Framework, including Sections 12 (Achieving well-designed places) and 13 (Protecting Green Belt Land) of the NPPF, 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: 14 February 2024

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### **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 392384

### **Reasons**

1. The site lies within the Green Belt in the Calderdale Local Plan wherein there is a presumption against development for purposes other than those exceptions specified in Policy GB1 (Green Belt) and Paragraphs 154 and 155 of Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework (NPPF). The proposal does not fall within any of these stated exceptions, and it would therefore represent inappropriate development in the Green Belt. It would cause harm to the Green Belt, in terms of its inappropriateness, harm to openness and failing to assist in safeguarding the countryside from encroachment. Substantial weight has to be given to such harm in accordance with Paragraph 153 of the NPPF. No very special circumstances have been demonstrated that would outweigh this harm. The proposal is therefore contrary to Policy GB1 of the Calderdale Local Plan and guidance relating to Green Belts contained within the NPPF, particularly at Paragraphs 152 to 155
  2. The construction of a dormer bungalow would not constitute a contextual response to the character and appearance of existing buildings and the surroundings. It would not be reflective of local context nor respond to local distinctiveness. It would affect the scenic quality of the Special Landscape Area by failing to protect and enhance the landscape quality, sense of place and local distinctiveness of the area. It would therefore be contrary to Policies BT1 and GN4 of the Calderdale Local Plan and guidance at Paragraph 135 of the National Planning Policy Framework.
  3. The proposal would result in the intensification of an access track that is unsuitable for such purpose principally as a result of its width and form. It would also be unable to provide a safe and suitable access onto the highway due to the visibility splay and the acute angle upon which the access approaches the highway. It would therefore fail to comply with Policy BT4 of the Calderdale Local Plan and guidance at Paragraph 115 of the National Planning Policy Framework.
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Time Not Before: 1400 - 03

Application No: 23/00179/FUL

Ward: **Skircoat**

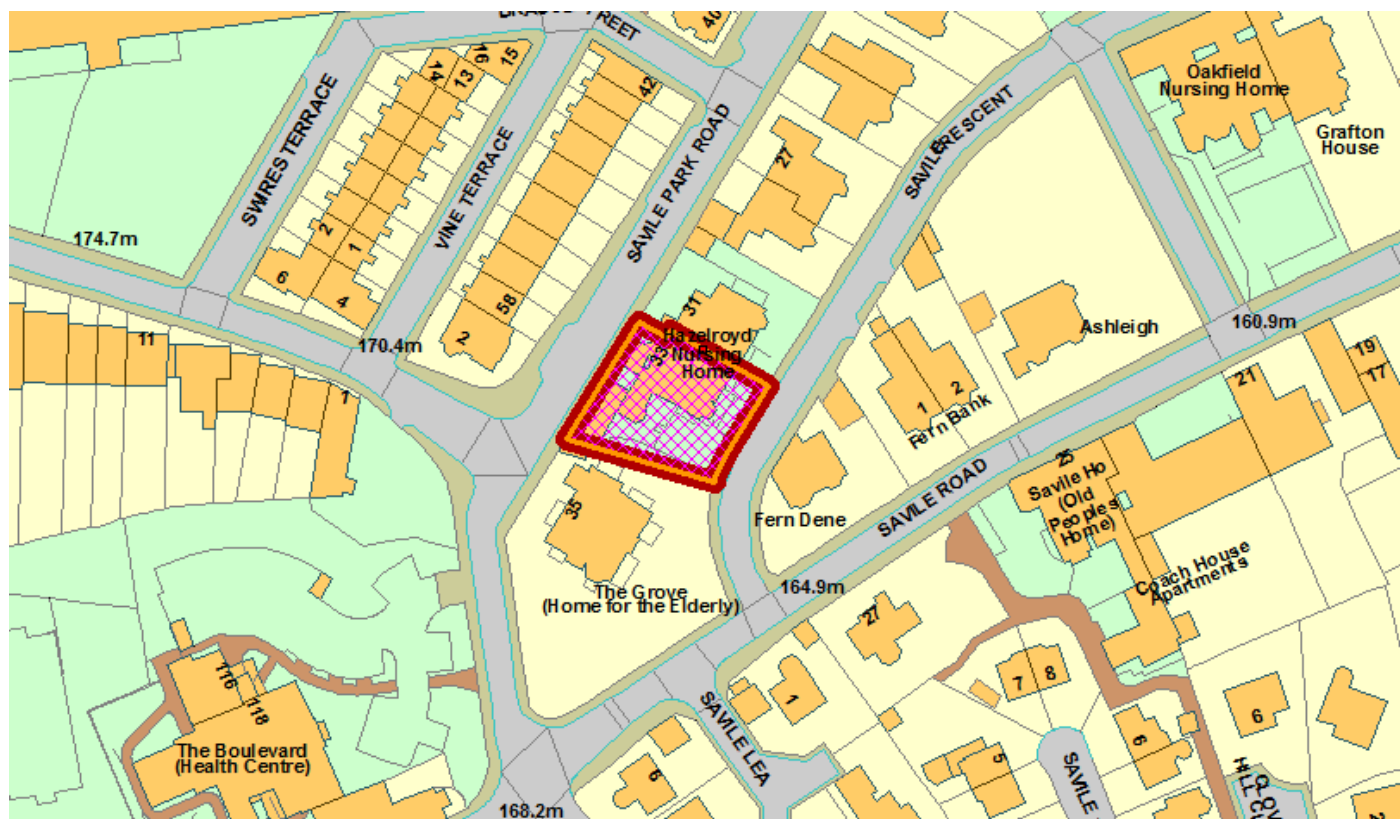
Area Team: **South Team**

Proposal:

**Conversion of nursing home(Class C2) to 6 apartments(Class C3)**

Location:

**33 Savile Park Road Halifax Calderdale HX1 2EN**



Applicant:

**Mr B Mustafa**

Recommendation: **PERMIT**

Parish Council Representations:

N/A

Representations:

Yes

Departure from Development Plan:

No

Consultations:

Yorkshire Water Services Ltd (BC)

Flood Risk Manager

Environmental Health Services - Pollution Section (E)

Flood Risk Manager

Yorkshire Water Services Ltd (DM)

Highways Section

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

The site is located within a residential area of Skircoat Green Ward, to the south of Savile Park Road. The building was last used as a care home, which was established in 2005, however, there are no apparent planning permissions for this use. Prior to this the building is said to have been three residential homes.

It is a large two storey Victorian building with outbuildings that would have originally been occupied as a pair of semi-detached houses. There have been alterations to the building over the years including a conservatory, two storey side extension and the conversion of stables to flat (79/01526/CON). The application site relates to one half of the former care home number 33 and not 31.

Planning permission is sought for the conversion of former nursing home (Class C2) to 6 apartments (Class C3).

The application is accompanied by the following supporting documents:

- Application form and proposed plans
- Drainage plans
- Surface water drainage
- Existing drainage plan
- Foul drainage assessment

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

### **Relevant Planning History**

An application for change of use of nursing home to 3 dwellings was permitted under delegated powers on 26<sup>th</sup> November 2020 (application number 20/00971/FUL).

An application to discharge conditions 1, 2, 3 and 4 on planning application 20/00971/FUL) was discharged on 3<sup>rd</sup> April 2023. (application number 20/00971/DISC1).

An application for a conservatory was permitted under delegated powers on 26<sup>th</sup> August 1988 (application number 88/01566/FUL).

An application for a conservatory was withdrawn on 4<sup>th</sup> March 1988 (application number 88/00084/FUL).

An application for a two storey side extension was permitted under delegated powers on 15<sup>th</sup> June 1982 (application number 82/00786/FUL)

An application for conversion of stables to form flat was permitted under delegated powers on 24<sup>th</sup> July 1979 (application number 79/01526/CON).

### **Key Policy Context:**

<b>Calderdale Local Plan Designation</b>	Landscape Character Area – Urban Critical Drainage Area
<b>Calderdale Local Plan policies</b>	<b>HS1</b> Non Allocated Sites <b>GN4</b> – Landscape Character <b>BT1</b> High Quality Inclusive Design <b>BT2</b> Privacy, Daylight and Amenity Space <b>BT4</b> The Design and Layout of Highways and Accesses <b>BT5</b> Designing out Crime <b>IM5</b> Ensuring Development Supports Sustainable Travel – Annex A Car & Bicycle parking standards <b>CC3</b> Water Resource Management <b>CC2</b> Flood Risk Management (Managing Flood Risk in New Development - Protection from Flood Risk. <b>Annex 1</b> Car & Bicycle parking standards <b>Annex 2</b> Space About Dwellings
<b>National Planning Policy Framework</b>	<b>5.</b> Delivering a sufficient supply of homes <b>9.</b> Promoting sustainable transport <b>12.</b> Achieving well-designed places <b>15</b> Conserving and enhancing natural environment
<b>Other Constraints</b>	<b>British Coal – Low Risk</b>
<b>Other material planning considerations</b>	<b>Climate Emergency Declaration (Jan 2019)</b>

### **Publicity/ Representations:**

The application was publicised with eighteen neighbour notification letters.

Twenty five letters of objection were received.

### **Summary of Points Raised:**

#### **Objection**

- Increase in parking
- Increase on facilities such as schools, GP surgeries and infrastructure
- Impact on houses prices in the area
- Lack of parking
- Busy on roads in the vicinity at school drop off and pick up times.
- Overlooking into my garden
- Detract from the overall character of the area.
- Conversion work has already started.
- Negative impact the proposal has on the historic environment
- The plans do not show the stable/outbuilding (*this is because it does not form part of the development*).

- Insufficient parking in the area
- Negative impact on the neighbourhood in relation to noise, over population, character and safety concerns of school children.

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

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

### **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 revised on 19 December 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 225 of Annex 1 (Implementation) of the NPPF advises to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

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

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

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; 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.

In this case, the site does not lie within a protected area where the framework indicates that development should be restricted. The results of the 2022 Housing Delivery Test show that Calderdale Council has not achieved the 75% rate required. As such, the presumption in favour of sustainable development under Paragraph 11(d) of the NPPF is engaged. The LPA notes that Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision-making. As such, the policies in the adopted Calderdale Local Plan are considered to be up to date and carry full weight.



## Housing Issues

Paragraph 11, footnote 8 of the NPPF establishes that, for applications involving the provision of housing, the policies which are most important for determining the application should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, unless the policy protects areas or assets of particular importance and provides a clear reason for refusing the development.

The Local Plan has now been adopted and as such makes provision for such supply.

CLP policy HS1 establishes that residential development will be supported provided that it is in accordance with specified criteria, including that the development amongst other things creates no environmental, heritage, flood risk, nature conservation or other problems.

The site is located in a sustainable location, within walking distance of the town centre, close to a main road with a regular bus service into the town centre with access to all amenities and schools. There are a mix of properties in the vicinity which include terraced properties, large semi-detached properties and large Victorian properties which have been converted to flats. The NPPF and housing policy support a mix of house types in an area.

Given the above the proposal for flats is considered to be acceptable in principle and would satisfy CLP policy HS1 and section 5 of the NPPF. Other relevant policies are assessed below.

## Visual Amenity, Layout, Design & Materials

With regards to policy GN4 “Landscape Character Areas” the site falls within Urban Areas.

The site is located as a Landscape Character designation and as such CLP policy GN4 is relevant.

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

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

NPPF Section 15 Conserving and enhancing the natural environment states in paragraph 180:

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

- Protecting and enhancing valued landscapes ....

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

Section 12 of the NPPF paragraph 131 states:

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

Paragraph 135 of the NPPF confirms that planning decisions should, amongst other matters, ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

The is one half of a former nursing home. The application proposes to turn the dwelling into six flats. One flat in the basement, three flats on the ground floor and two further flats at first floor level.

Flat one is a two bedroom flat of 98sqft – basement level

Flat two is a one bedroom flat of 67sqft - ground floor level

Flat three is a one bedroom flat of 48sqft – ground floor level

Flat four is one bedroom flat of 73sqft – ground floor level

Flat five is a two bedroom flat of 68sqft – first floor level

Flat six is a two bedroom flat of 62sqft – first floor level

Most flats have an open plan kitchen/living dining room and will utilise all existing window openings, there are no new openings proposed. The basement flat has its own entrance along with flat 4. All the other flats (2, 3, 5 & 6) will be accessed through the front main entrance.

The building is a very large Victorian semi-detached dwelling which can easily be converted into 6 flats.

Subject to conditions, the proposal is considered to comply with policy BT1 of the CLP

### Residential Amenity

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

Annex 2 requires 21m between two main aspect windows 18m between a main and secondary, 15m between two secondary, 12m between a main aspect and blank elevation and 9m between a secondary and blank. These distances are for guidance and certain scenarios allow for more flexibility.

The houses to the southwest of the site are between c.19.4m and 26.9m from habitable windows, with a road and pavement intervening such that privacy expectations are generally lower. It is considered that the proposed layout would have no greater impact on privacy than the last use and the distances would accord with Annex 2.

The rear elevation of Far Dene is c.15m from the nearest habitable window of the site. It has an obscure glazed porch/conservatory on the rear, which faces proposed lounge, kitchen and bedroom windows. According to the existing floorplans these rooms were previously used as a lounge and bedrooms by the care home, therefore it is considered that there would be no greater impact on the privacy of existing residents. In addition, there is a slight level difference and an intervening street as such it is considered that the prospective residents would not feel unduly overlooked to the significant detriment of their amenity.

1 Fern Bank is c.20m to the southeast; its nearest windows are perpendicular to the site and therefore not directly facing and the proposed layout would have no greater impact than the last use on the privacy of residents.

The Assistant Director of Public Services (Environmental Health) was consulted on the application and has made the following comments:

*"I have no objection to the proposed conversion to 6 apartments. The submitted plans show a bin store and I would like to see that this part of the development is adhered to."*

The proposal is considered to support the aims of Annex 2 and policy BT2 of the CLP.

### Highway Considerations

CLP policy BT4 discusses the design and layout of highways and accesses.

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

CLP policy IM4 states that:

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

Paragraphs g and j of IM4 are also relevant as they seek to encourage cycle usage and the provision of electric charging points. Whilst it is considered reasonable to condition cycle storage as part of an approval, policy guidance setting out standards for charging infrastructure has been overtaken by amended Building Regulations Document S "Infrastructure for the charging of electric vehicles" (February 2022). Such a condition is considered to duplicate these Building Regulations and contravene the long-held principle that local planning authorities should not duplicate the function of other regulatory bodies or controls.

The proposal will provide nine parking spaces within the red line.

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

*"There are no highway objections to this application as submitted subject to condition requiring cycle storage."*

The proposal is therefore considered to comply with policies BT4 and IM4 of the CLP.

## Flooding and Drainage

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

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

CLP policy CC3 discusses water resource management which includes amongst other things:

*“...Ensuring new development has an adequate means of water supply, sufficient foul and surface water drainage and sewage treatment capacity;...”*

The site is not located within a flood risk area but is in a critical drainage area.

The Local Lead Flood Risk Manager has provided the following comments:-

*“The Flood risk statement submitted is adequate. In line with the hierarchy of surface water disposal, the use of soakaways should be considered, and soakaway tests submitted for approval. If soakaways are not appropriate, then attenuation should be provided to achieve a 30% reduction in the existing surface water discharge rate.”*

Subject to a condition requesting full drainage details, the proposal would comply with CLP policies CC1, CC2 and CC3 and section 14 of the NPPF.

## Crime Prevention.

CLP policy BT5 establishes that the design and layout of new development should address the safety and security of people and property and reduce the opportunities for crime.

The West Yorkshire Police Architectural Liaison officer has considered the proposal and has provided recommendations in order to reduce crime. An informative is proposed advising the applicant of these comments.

## Land stability

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

## **CONCLUSION**

The proposal is considered to be acceptable subject to the conditions. 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: 14<sup>th</sup> February 2024

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## **Further Information**

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

Janine Branscombe (Case Officer) on 01422 392215 Or Jason Morris (Lead Officer) on 01422 392384

## **Conditions**

1. The development shall be carried out in accordance with the schedule of approved plans listed above in this decision notice, unless variation of the plans is required by any other condition of this permission.
2. The development shall not be occupied until details of a secure internal cycle store have been submitted to and approved in writing by the Local Planning Authority. The store shall then be provided in accordance with the details so approved prior to the first occupation of the development and retained thereafter. Ideally this should be internally within the property. If external it needs to be in accordance with the Secured By Design Homes 2019 document, paragraphs 56 and 57. In terms of dimensions at least 2m x 1.4m with an opening of at least 1m is required as this would accommodate two cycles. Note that vertical storage is not accepted.
3. Prior to the first occupation of the development, 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) shall 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. Notwithstanding any details shown on the approved plans the site shall be built to "secured by design" standards as set out in the comments received by West Yorkshire Police on the 19th April 2023 and shall be so retained thereafter.

### **Reasons**

1. 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.
  2. To ensure adequate cycle storage is available and to ensure compliance with policy IM4 of the Calderdale Local Plan.
  3. To ensure proper drainage of the site and to ensure compliance with Policies CC1, CC2 and CC3 of the Calderdale Local Plan.
  4. In the interests of safety and security of the property and to ensure compliance with policy BT5 of the Calderdale Local Plan.
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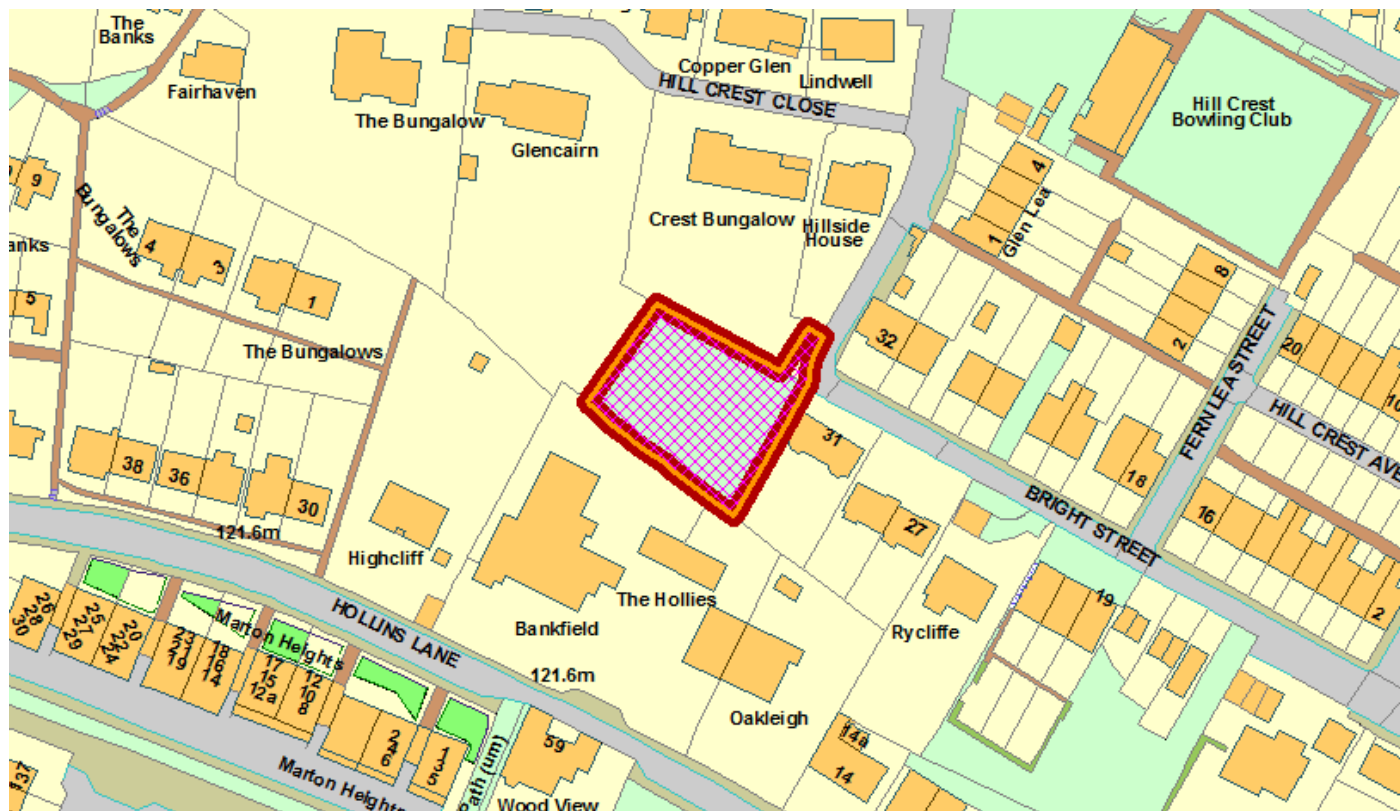
Time Not Before: 1400 - 04

Application No: 23/00471/FUL

Ward: **Sowerby Bridge**  
Area Team: **South Team**

Proposal:  
**Three dwellings**

Location:  
**Land Adjacent To 31 Bright Street Sowerby Bridge Calderdale**



Applicant:  
**Mr James Dunning**

Recommendation: **PERMIT**

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

Consultations:

Highways Section  
Environmental Health Services - Pollution Section (E)  
Flood Risk Manager  
Flood Risk Manager  
Countryside Services (E)

## **Description of Site and Proposal**

The site is a fairly large section of unused land (0.085ha) situated at the end of Bright Street (unadopted), Sowerby Bridge and just south of the main A646 Burnley Road. It is situated within a residential area of mixed property types mostly constructed of natural and artificial stone with natural blue slate roofs.

Planning permission was permitted for three dwellings in 2015 (15/01234/FUL) and then again in 2018 (18/00560/FUL). However, a further application was submitted in 2022 for the construction of four dwellings which was refused at planning committee as four dwellings were considered overdevelopment and Bright Street being inadequate to accommodate additional traffic.

Planning permission is sought for the construction of three detached dwellings.

The application is accompanied by the following supporting documents:

- Application form and proposed plans
- Phase 1 report
- Planning statement
- Bat assessment form
- Species enhancement statement
- Surface water drainage
- Drainage maintenance strategy
- Drainage strategy
- Flood risk assessment
- Storage calculations for all plots

The application has been referred to Planning Committee due to the sensitive nature of the application and at the request of Councillor A Wilkinson.

## **Relevant Planning History**

An application for two detached dwellings was refused under delegated powers on 21<sup>st</sup> March 2005 (application number 04/02380/FUL).

An application for two detached dwellings was refused under delegated powers on 31<sup>st</sup> August 2005 (application number 05/01274/FUL).

An outline application for two detached dwellings was refused under delegated powers on 4<sup>th</sup> December 2006 (application number 06/02010/OUT).

An application for one detached dwelling was permitted under delegated powers on 9<sup>th</sup> May 2013 (application number 13/00294/FUL).

An application for two detached dwellings was permitted under delegated powers on 30<sup>th</sup> December 2014 (application number 14/01275/FUL)

An application for three detached houses was permitted under delegated powers 25 November 2015 (application number 15/01234/FUL).

An application for three detached houses was permitted under delegated powers on 3<sup>rd</sup> July 2018 (application number 18/00560/FUL)



An application for a discharge of conditions 1-13 application is still pending consideration.

An application Non-material amendment to 18/00560; increase eaves height keeping ridge height by using flatter roof pitch, two escape windows to front (north) elevation and alterations to windows to rear (south) elevation was approved on 12<sup>th</sup> December 2018 (application number 18/00560/NMA)

An application for construction of 4 x 4 bed dwellings with associated parking and amenity space was refused at planning committee on 15<sup>th</sup> November 2022 (application number 22/00592/FUL)

### **Key Policy Context:**

<b>Calderdale Local Plan Designation</b>	Landscape Character Area – Calder Critical Drainage Areas
<b>Calderdale Local Plan policies</b>	<b>HS1</b> Non Allocated Sites <b>GN4</b> – Landscape Character <b>BT1</b> High Quality Inclusive Design <b>BT2</b> Privacy, Daylight and Amenity Space <b>BT4</b> The Design and Layout of Highways and Accesses <b>BT5</b> Designing out Crime <b>IM5</b> Ensuring Development Supports Sustainable Travel – Annex A Car & Bicycle parking standards <b>CC3</b> Water Resource Management <b>CC2</b> Flood Risk Management (Managing Flood Risk in New Development - Protection from Flood Risk. <b>HE1</b> Historic Environment <b>GN3</b> Natural Environment <b>EN3</b> Environmental Protection <b>Annex 1-</b> Car & Bicycle parking standards <b>Annex 2</b> – Space About Dwellings23
<b>National Planning Policy Framework</b>	<b>5.</b> Delivering a sufficient supply of homes <b>9.</b> Promoting sustainable transport <b>12.</b> Achieving well-designed places <b>15</b> Conserving and enhancing natural environment
<b>Other Constraints</b>	<b>Bat alert area</b>
<b>Other material planning considerations</b>	<b>Climate Emergency Declaration (Jan 2019)</b>

### **Publicity/ Representations:**

The application was publicised with a site notice and twenty neighbour notification letters.

Seventeen letters of objection/representation were received.

### **Summary of points raised:**

Objection:

- Retaining wall has no drainage

- Surface water run-off from the site and effect on properties below
- Yorkshire water and Calderdale council have visited this area on numerous occasions in order to assess the drainage issues.
- Land stability
- The site has never had vehicular access to the site
- Drainage issues will still continue at the site
- The site should only have two dwellings on the site as agreed by councillors at the last cttee meeting.
- 40% increase in vehicles using the street when the houses are built
- No surface drainage on Bright Street
- Existing unadopted road is in a bad state of repair
  - Insufficient parking for residents at present
  - No visitor parking
- Infrastructure not adequate to deal with anymore dwellings
- Awkward plot for building
- Access into the site problematic
- Covenant on the land stating no building
- Materials proposed not in keeping with the area
- No capacity for additional cars
- Bright Street leading to Glen Street has become a rat run
- Delivery vehicles will struggle
- Height of proposed dwellings are excessive
- Overdevelopment of the site
- Block light to nursing home below

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

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

### **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 revised on 19 December 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 225 of Annex 1 (Implementation) of the NPPF advises to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

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

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

- approving development proposals that accord with an up-to-date development plan without delay; or

- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; 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.

In this case, the site does not lie within a protected area where the framework indicates that development should be restricted.

The results of the 2022 Housing Delivery Test show that Calderdale Council has not achieved the 75% rate required. As such, the presumption in favour of sustainable development under Paragraph 11(d) of the NPPF is engaged. The LPA notes that Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision-making. As such, the policies in the adopted Calderdale Local Plan are considered to be up to date and carry full weight.

The application site is within a highly sustainable location which is close to public transport and schools and other local facilities/services.

Furthermore, the principle of dwellings on the site has already been established through the granting of 18/00560/FUL.

Therefore, the proposed development is considered to be acceptable in principle. Visual and residential amenity, as well as highway considerations and other relevant issues, are considered further below.

### Housing Issues

Paragraph 11, footnote 8 of the NPPF establishes that, for applications involving the provision of housing, the policies which are most important for determining the application should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, unless the policy protects areas or assets of particular importance and provides a clear reason for refusing the development.

The Calderdale Local Plan (CLP) has now been adopted and as such makes provision for such supply.

CLP policy HS1 establishes that residential development will be supported provided that it is in accordance with specified criteria, including that the development amongst other things creates no environmental, heritage, flood risk, nature conservation or other problems.

The site is located in a sustainable location, within walking distance to the Sowerby Bridge Town centre, with access to all amenities and schools. There are a mix of properties in the vicinity with terraced properties to the north east, new detached housing on Bright Street to the south east of the site. There are various other types of properties in the wider area. The NPPF and housing policy support a mix of house types in an area.

Given the above, the proposal for 3 dwellings is considered to be acceptable in principle and would satisfy CLP policy HS1 and section 5 of the NPPF. Other relevant policies are assessed below.

## Visual Amenity, Layout, Design & Materials

With regards to policy GN4 “Landscape Character Areas” the site falls within settled valleys – Calder (Todmorden, Hebden Bridge and Mytholmroyd).

This LCA consists of the main valley of the River Calder, running the breadth of Calderdale District from Todmorden in the west to Sowerby Bridge in the east. The Rochdale Canal runs parallel to the Calder, and Hebble Brook flows through Halifax. The character area is wholly contained within the district.

The site is located as a Landscape Character designation and as such CLP policy GN4 is relevant.

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

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

NPPF Section 15 Conserving and enhancing the natural environment states in paragraph 180:

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

- Protecting and enhancing valued landscapes ....

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

Section 12 of the NPPF paragraph 131 states:

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

Paragraph 135 of the NPPF confirms that planning decisions should, amongst other matters, ensure that developments add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping and are sympathetic to local character and history, including the surrounding built environment and landscape setting.

The design of the dwellings is such that they had to take account of the steep site and therefore are four storeys in height when viewed from the rear and two storeys when viewed from the front on the approach to the dwellings.

The walling is proposed to be artificial and the roof artificial blue slates both of which are suggested to be conditioned. The surrounding local area is predominately natural stone and natural blue slate. It is therefore considered by Officer's that a good artificial stone would be required so that the proposal is in keeping with the immediate area as there are a few additional new dwellings on Bright Street that have been constructed out of a good artificial stone.

The windows and doors are proposed as being dark grey UPV or aluminium. The boundary will be newly planted hedgerow and a timber close boarded fencing for the division between the plots. The proposed access is pavements with permeable joints.

Given the different materials used for properties in the local area, it is considered that these proposed materials would be appropriate and acceptable visually. A condition will require walling and roofing materials to be submitted for approval.

In terms of scale, form and design (and in relation to the approved dwellings on 15/01234/FUL), the plans now show the new three proposed dwellings would be sited staggered to each other but to the same height overall. The plots would now be two storey to the north east (garage with bedrooms above), and 4 storeys high to the south west (bedrooms and living area at lower and ground floor level). The height of the ridge to plot 1 would now be 100mm higher and the eaves to all plots to the north east elevations have been raised to allow for the additional bedrooms at attic level.

The south west elevations of the proposed dwellings are quite distinctly designed with inset balconies and breaks in the eaves to accommodate windows. However, given the varying designs to properties in the street and the area, the sloping land and potential views from the new dwellings these designs would be beneficial to their occupiers and not appear obtrusive given also the limited views from Hollins Lane itself. It would be sited in a similar position to the adjacent property 31 Bright Street but with a slightly lower ridge height.

The lower ground floor will provide an en-suite bedroom and a further bedroom and family bathroom. Both bedrooms having bi-fold doors.

The garden floor will provide a WC, hallway, open plan kitchen dining and living room and utility room. It will have bi-fold doors leading to a small patio.

The ground floor will provide a garage, wc, store and landing area and the top floor will provide two further bedrooms and family bathroom.

The dwellings from the south (rear) will be four storeys in height and from the north (front) will be two storeys in height.

Given the above and subject to conditions, the proposal is considered to be comply with policies BT1 and GN4 of the CLP and paragraphs 131 and 135 of Section 12 of the NPPF.

### Residential Amenity

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

There are no openings proposed to the sides of the plots which would need to be imposed as a condition if approving the application. Plot 2 would be sited 21m away from the property known as 'Bankfield Rest Home', Plot 1 would be 20.5m away from 'The Hollies and Plot 3 would be 24m from 'Bankfield Rest Home'. The proposed tiered gardens to the front of the plots would be sited closer to these properties which are at a lower ground level to the site, and it is considered that sufficient boundary treatment is necessary to prevent overlooking from these tiered gardens and to remove permitted development rights to assist residential amenity.

The ground level to 'Crest Bungalow to the north is at a higher ground level and there is a boundary wall with 1.8m fence proposed to this boundary also.

There would however be some potential overlooking to the rear patio area of no.31 immediately to the east of the site from the proposed veranda of plot 1, but a 1.8m high close boarded fence to span the veranda is shown on the proposed floor plan for Plot 1 that would address this concern.

The proposed dwellings are considered not to result in loss of light or overbearing to other neighbouring properties because of their siting and distance away from them.

Subject to conditions and given the above the proposal would satisfy policy CLP BT2 and Annex 2 of the CLP

### Highway Considerations

CLP policy BT4 discusses the design and layout of highways and accesses.

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

CLP policy IM4 states that:

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

Paragraphs g and j of IM4 are also relevant as they seek to encourage cycle usage and the provision of electric charging points. Whilst it is considered reasonable to condition cycle storage as part of an approval, policy guidance setting out standards for charging infrastructure has been overtaken by amended Building Regulations Document S "Infrastructure for the charging of electric vehicles" (February 2022). Such a condition is considered to duplicate these Building Regulations and contravene the long-held principle that local planning authorities should not duplicate the function of other regulatory bodies or controls.

The proposal will provide two parking spaces per dwelling by the way of an integral garage for each plot.

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

This application in highway terms is identical to that submitted and approved in 18/00560.

There remains no highway objection to the application as submitted subject to conditions."

The proposal is therefore considered to comply with policies BT4 and IM4 of the CLP.

### Flooding and Drainage

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

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

CLP policy CC3 discusses water resource management which includes amongst other things:

*“...Ensuring new development has an adequate means of water supply, sufficient foul and surface water drainage and sewage treatment capacity;...”*

The site is not located within a flood risk area but is in a critical drainage area.

The Local Lead Flood Risk Manager has provided the following comments:

*“The Flood risk statement submitted is adequate. In line with the hierarchy of surface water disposal, the use of soakaways should be considered, and soakaway tests submitted for approval. If soakaways are not appropriate, then attenuation should be provided to achieve a 30% reduction in the existing surface water discharge rate.”*

Subject to a condition requesting full drainage details, the proposal would comply with CLP policies CC1, CC2 and CC3 and section 14 of the NPPF.

### Wildlife Conservation

The proposed development is located within a bat alert area.

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

The Assistant Director – Neighbourhoods (Biodiversity and Conservation Officer) was consulted on the proposal and made the following comments:-

*“As for 22/00592/FUL, I am satisfied that the information presented demonstrates that there is a low chance of an adverse impact on roosting bats. I do not believe a bat survey to be required.  
I also concur with the proposals in the Species Enhancement Statement.”*

The proposal would comply with CLP policy GN3 of the NPPF.

### Other Issues raised

Concerns have been raised by one of the objectors relating to the impact of vehicles on the safety and integrity of the road, and noise and disturbance during building works. It is acknowledged that there is likely to be some disruption to local residents created by the development, however any disruption caused during the construction process will be of a temporary nature and it is not considered by Officers that this would constitute grounds for refusal of this application.

### CONCLUSION

**The proposal is considered to be acceptable subject to the conditions specified. 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: 22<sup>nd</sup> February 2024

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### Further Information

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

Janine Branscombe (Case Officer) on 01422 392215 or Jason Morris (Lead Officer) on 01422 392384

### Conditions

1. The development shall be carried out in accordance with the schedule of approved plans listed above in this decision notice, unless variation of the plans is required by any other condition of this permission.
2. Notwithstanding any details shown on the permitted plans the development shall not begin until details of the proposed facing and roofing materials have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the development shall be constructed in accordance with the details so approved and shall be so retained thereafter.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that order) no development falling within Classes A - E of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the Local Planning Authority.



4. No dwelling shall be occupied until the garages, parking and manoeuvring facilities shown on the permitted plans for that dwelling have been provided and sealed and made available for the occupiers of that dwelling. These facilities shall thereafter be retained.
5. The building construction works shall not begin until the new vehicular access has been laid out and constructed to base course. The access shall be completed in accordance with the permitted plans before any part of the development is brought into use and shall be so retained thereafter.
6. The dwellings should not be occupied until sightlines of 2.4 x 25m have been provided in both directions at the centre point of the access road at its junction with Bright Street and these shall be kept free of any obstruction to visibility exceeding 0.9m in height thereafter.
7. Before the development begins details of the construction and specification for the access roads shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be fully implemented before any part of the development is occupied and shall be retained thereafter.
8. 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.
9. A survey of existing site drainage, including any culverts/watercourses that may cross the site, showing connectivity and condition, shall be carried out prior to demolition of any existing structures and the findings submitted to the Local Authority for comment.
10. Prior to the completion of the walls a single permanent bat roosting feature constructed of concrete, woodcrete, ecostyrocrete or similar material shall be installed within the fabric of each of the dwellings within 50cm of the W facing roofline (but not directly above any windows). The bat roosting features shall be installed in accordance with these details and retained thereafter.
11. No removal or management of any tall vegetation, including brambles, ivy, trees and shrubs, should be carried out between 1st March and 31st August inclusive unless a competent ecologist has undertaken a bird survey immediately before the vegetation has been cleared and provided written confirmation that no birds will be harmed or disturbed and/or that there are appropriate measures in place to protect nesting birds on site. Any such written confirmation should be submitted to the Local Planning Authority.
12. The development shall not begin until plans of the site showing details of the existing and proposed ground levels, proposed floor levels, levels of any paths, drives, garages and parking areas and the height and finish of any retaining walls within the development site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the details so approved and shall be so retained thereafter.

## **Reasons**

1. For the avoidance of doubt as to what benefits from planning permission and to ensure compliance with the Development Plan and National Planning Policy Framework.
  2. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with BT1 of the Calderdale Local Plan.
  3. In the interests of visual and residential amenity and to ensure any future developments at the site are controlled.
  4. To ensure that adequate off-street parking is available for the development and to ensure compliance with BT4 of the Calderdale Local Plan.
  5. To ensure that suitable access (and parking provision) is available through the course of construction works in the interests of highway safety and to ensure compliance with policy Bt4 of the Calderdale Local Plan.
  6. To ensure adequate visibility in the interests of highway safety and to ensure compliance with Policy BT4 of the Calderdale Local Plan.
  7. To ensure that suitable access is available for the development and to ensure compliance with BT4 of the Calderdale Local Plan.
  8. To ensure proper drainage of the site and to ensure compliance with Policies CC1, CC2 and CC3 of the Calderdale Local Plan.
  9. To ensure proper drainage of the site and to ensure compliance with policies CC2 and CC3 of the Calderdale Local Plan.
  10. In the interests of nature conservation and to protect the ecological species and to ensure compliance with policy GN3 of the Calderdale Local Plan.
  11. In the interests of nature conservation and to protect the ecological species and to ensure compliance with policy GN3 of the Calderdale Local Plan.
  12. To ensure that the works are carried out at suitable levels in relation to adjoining properties and highways in the interests of visual amenity and to ensure compliance with BT1 of the Calderdale Local Plan.
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