

CALDERDALE METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE

WARDS AFFECTED: MORE THAN THREE

Date of meeting: 21 June 2022

Chief Officer: Director of Regeneration and Strategy.

1. SUBJECT OF REPORT

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

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

2. INTRODUCTION

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

3. IMPLICATIONS ARISING FROM REPORT

3.1 Planning Policies

These are set out separately in each individual application report.

3.2 Sustainability

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

3.3 Equal Opportunities

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

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

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

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

3.4 Finance

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

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

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

Reference: 6/00/00/CM

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

FOR FURTHER INFORMATION ON THIS REPORT CONTACT:

Richard Seaman
Corporate Lead
For Planning Services

TELEPHONE :- 01422 392241

DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:

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

DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:

www.calderdale.gov.uk.

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

List of Applications at Committee 21 June 2022

Time & No.	App No.	Location	Proposal	Ward	Page No.
1400	20/01367/FUL	Derdale Development Derdale Street Todmorden Calderdale	Construction of 12 Houses in lieu of 9 Industrial Units as Planning Permission 03/00937	Calder	5 - 23

Time Not Before: 1400

Application No: 20/01367/FUL

Ward: **Calder**

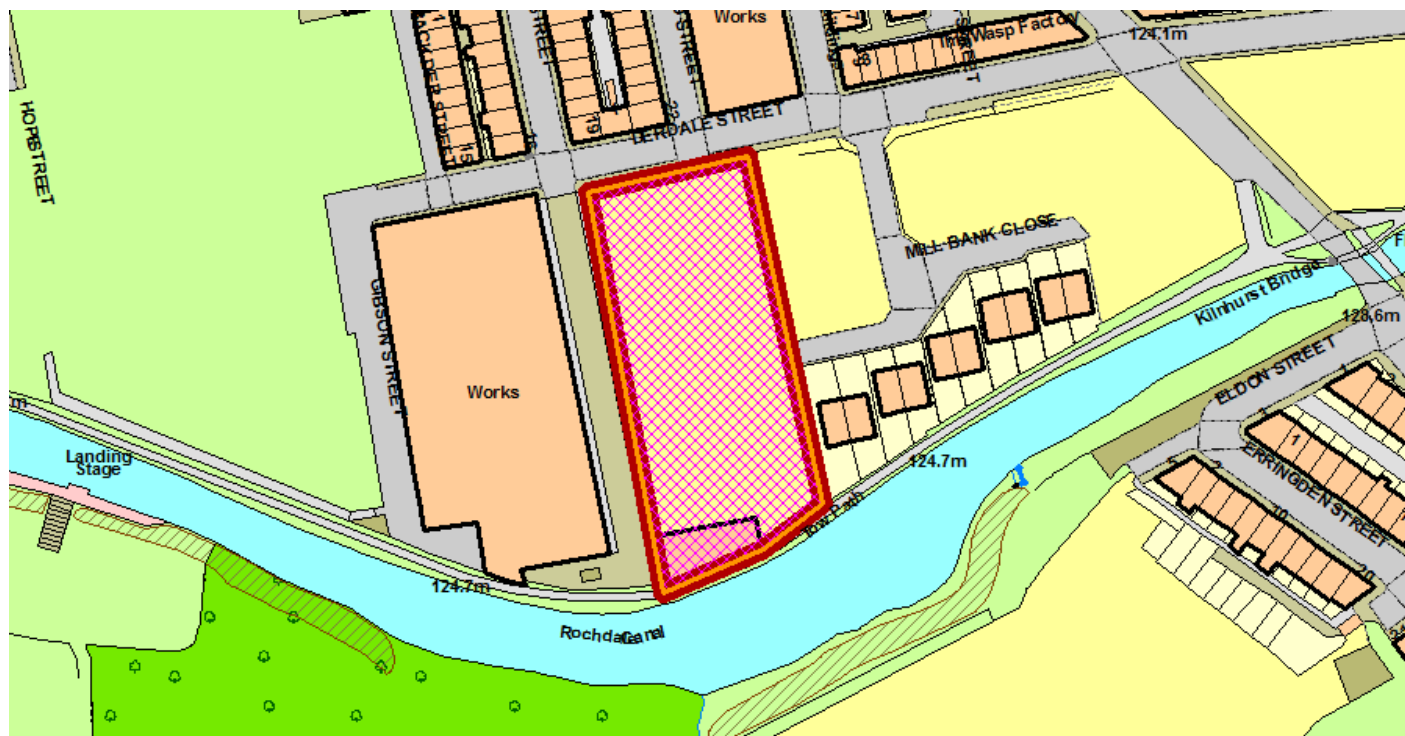
Area Team: **North Team**

Proposal:

Construction of 12 Houses in lieu of 9 Industrial Units as Planning Permission 03/00937

Location:

Derdale Development Derdale Street Todmorden Calderdale



Applicant:

Derdale Mill Limited

Recommendation: Permit (Subject of a Legal Agreement)

Parish Council Representations: Y

Representations: Y

Departure from Development Plan: No

Consultations:

Highways Section

Environmental Health Services - Pollution Section (E)

West Yorkshire Police ALO

Housing Services

Education Services

Lead Local Flood Authority

Yorkshire Water Services Ltd
Community Engagement
Business And Economy
Todmorden Town Council
Canal & River Trust
Environment Agency (Waste & Water)
Highways Section
West Yorkshire Combined Authority
Todmorden Town Council
Environment Agency (Waste & Water)
Environment Agency (Waste & Water)

Description of Site and Proposal

The application relates to an area of informally surfaced hardstanding between Derdale Street and the Rochdale Canal totalling some 0.3 hectares in area. Historically the site formed part of the Derdale Mill complex, which was demolished in 2003, prior to the construction of Mill Bank Close to the East of the current application site. On the Northern side of Derdale Street is an area of high-density Victorian housing. To the West of the site are industrial units. Todmorden Town Centre is located approximately 600m to the west of the site.

The site is mainly in Flood Zone 3a, with very small areas of Zone 2. The site is not within the Todmorden Conservation Area; however, the edge of its boundary lies immediately to the North running along Derdale Street. The site is not within the setting of any Listed Buildings.

The application is for construction of 12 houses in lieu of the 9 industrial units that were permitted under planning permission 03/00937 (see planning history section below for further information).

The proposed houses comprise of 8 semi-detached and 4 detached units, served off a new access road from Derdale Street. All the houses are of traditional design, comprising 2 full storeys, with a second floor in the roof space. The proposed dwellings would be faced in coursed local natural stone under natural blue slate roofs.

The application is accompanied by the following supporting documents:

- Design and Access Statement
- Flood Risk Assessment and addendum
- Drainage assessment
- Air quality assessment
- Ground investigation
- Planning obligation statement

The reason that the application has been brought to Committee is because a written request, giving planning reasons, has been made by a Councillor concerning an application in their ward.

Relevant Planning History

Planning Permission 03/00937 was granted in 2006 for a mixed-use re-development at Derdale Mill comprising of 22 houses, 12 apartments and 9 industrial units. The residential element of that permission has been implemented and is now known as Mill Bank Close. The current application site comprises what was proposed to be the industrial units under the previous permission.

Although the industrial units were not constructed, the external ground level was established to comply with the requirements of the Flood Risk Assessment accompanying the 2003 application, which has meant raising the ground level above that of the adjacent Derdale Street. Given that 03/00937 was implemented before expiring, permission remains in place for construction of the industrial units. It follows from this that the raised ground levels that have been established on the current application site are lawful.

Key Policy Context:

Replacement Development Plan	Calderdale Designation/Allocation	Unitary	Primary Employment Area Regeneration Priority Areas Wildlife Corridor
Replacement Development Plan	Calderdale policies	Unitary	GE1 Meeting the Economic Needs of the District GE3 Development of Employment Sites for Non-Employment Uses E1 Primary Employment Areas E5 Safeguarding Employment Land and Building E19 Regeneration Priority Areas in the Upper Calder Valley H9 Non-Allocated Sites BE1 General Design Criteria BE2 Privacy, Daylighting and Amenity Space BE3 Landscaping BE5 The Design and Layout of Highways and Accesses BE18 Development Within Conservation Areas T18 Maximum Parking Allowances NE14 Protection of Locally Important Sites NE15 Development in Wildlife Corridors NE16 Protection of Protected Species NE17 Biodiversity Enhancement NE18 Ecological Protection of Water Areas EP1 Protection of Air Quality EP8 Other Incompatible Uses EP 9 Development of Contaminated Sites EP12 Protection of Water Resources EP14 Protection of Ground Water EP15 Development Alongside Waterways EP20 Protection from Flood Risk EP22 Sustainable Drainage Systems
National Planning Policy Framework Paragraphs/ National Design Guide			2 Achieving Sustainable Development 5 Delivering a Sufficient Supply of Homes 6 Building a Strong, Competitive Economy

	8 Promoting Healthy and Safe Communities 9 Promoting Sustainable Transport 11 Making Effective use of Land 12 Achieving Well Designed Places 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change 15 Conserving the Natural Environment 16 Conserving the Historic Environment
Other Relevant Planning Constraints	Flood Zones 2 and 3 Contamination Site Bat Alert Area
Other Material Planning Considerations	Calderdale Climate Emergency Declaration Emerging Calderdale Local Plan

Publicity/ Representations:

The application was publicised with site notices and press notice. In addition, neighbour notification letters were sent.

One letter of support was received.

Summary of points raised:

- As my property is directly located next to this development, the outcome of this application is particularly applicable.
Based on the documents submitted, I am in support of this development. It is particularly good to see the application containing plans for addition of trees to this area.*
- My only concern is the current state of Derdale Street and pedestrian surface adjacent to the outside walls of Mill Bank Close and the new development. I hope as part of this overall development, this will be rectified as it makes the overall area somewhat unattractive to both existing residents and potential house buyers.*

Ward Councillor Comments

Councillor D Young comments as follows:

As a Calder Ward Councillor I wish to object to the following Planning Application 20/01367/FUL on the following grounds:- a) Highways issues as raised by the Highways Department b) Potential for flooding likely with the current raised land level of the site by 7 foot. c) Site should be kept for potential Business use (B2) as suggested by The Business & Economy Department. If the Planning Officers recommend refusal, then that is OK but if the Planning Officer recommend approval then please can this application be referred to the Planning Committee for a decision following a site visit.

Parish/Town Council Comments

The development is located within the boundaries of Todmorden Town Council.

The Town Council comments:

07 Jan 2021:

Not supported.

TTC is thoroughly unhappy and quite troubled about the potential for flooding likely with the current raised land level of the site (around 7ft) and the lack of provision for drainage (the drains are currently inadequate in that area and already cause flooding into properties in the area) and the inadequate proposals for attenuation. The proposed tank seems inadequate for the likely flow.

The developments currently underway in the nearby vicinity have exacerbated the existing serious flooding in nearby properties and it is expected that the Derdale St development (as planned) will exacerbate this even further.

19 May 2022:

The Development Committee of Todmorden Town Council has asked me to write to you concerning the application to build houses on land off Derdale St (03/00937/FUL / 20/01367/FUL. The original application was for the building of industrial units.

Although, on one hand, it seems that it has been accepted that the ground level of the proposed houses will be raised to a level to prevent them suffering flooding, no account has been made of the impact of this on the existing terraced houses surrounding the site. These houses are now around 2 metres lower than the raised ground for the new builds. This area is in flood zone 3 and already regularly suffers with flooding. It is also thought that the water table in this area is rising, causing the ground floor of at least one house to subside. There is increasing concern that properties on Halifax Rd suffer with large wall cracks and loud vibrations as the traffic passes by and it is thought that this is caused by the rise in the water table also.

This is an area that really suffers with flooding - especially surface water flooding. It is thought that this has worsened since the building of the Lidl supermarket which was built at a raised level to protect it from flooding. The surface water now flows off the Lidl car park and down Halifax Rd/ Der St.

There is great concern that the building of houses on raised land on Derdale St (where around 25 houses and flats have already been built) will serve to exacerbate an already difficult situation.

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 2021 (NPPF) complements this requirement and 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.

At the heart of the NPPF is 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...designated heritage assets*] or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Calderdale does not currently have a five-year supply of deliverable housing sites (in advance of Local Plan adoption) and has failed to deliver sufficient new homes under the Government's Housing Delivery Test. As such this is an application where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. This amounts to a 'tilted-balance' in favour of granting planning permission.

Employment Issues

In the Replacement Calderdale Unitary Development Plan the site is designated as Primary Employment Area (PEA); however, in the Draft Local Plan the application site is deleted from the PEA and is shown as unallocated land. The site is also located within the designated Regeneration Priority Area in the RCUDP. Again, this designation has not been carried forward to the Draft Local Plan.

Policy E1 of the RCUDP (Primary Employment Areas) sets out the type of employment uses acceptable in the designated Employment Area. It does not however address proposals for non-employment uses. Policy E5 'Safeguarding Employment Land and Buildings' states that: *Proposals for non-employment uses which involve the loss of land resources and/or buildings which are either currently or whose last use was for industrial, business, office (Use Classes B1, B2 and B8) or other employment uses, will be permitted providing one or more of the following apply:-*

- i. ...
- ii. ...
- iii. *it can be demonstrated that the site and/or buildings are not economically or physically capable of supporting industrial, business (Use Class B1, B2 and B8) or other employment generating uses and that other UDP objectives can be achieved by the development;*
- iv. *no demand exists to use the site for employment purposes, and this is justified by evidence demonstrating the site has been adequately advertised on the open market for a reasonable length of time with purchase/lease costs set at an appropriate level to reflect the employment potential of the site/building in the local market;*
- v. ...
- vi.

Policy GE3 'Development of Employment Sites for Non-Employment requires that "where non-employment uses are proposed on sites whose current or last use is/was for employment purposes (use classes B1, B2 & B8), the provision of a contribution to offset the permanent loss of such a land resource will be sought.

The Council's Business and Economy Manager was consulted on the application and commented: *"This is a former mill site and employment land with two adjacent businesses who would be affected by having housing next to them. It would be preferred to keep this site for potential business use (B2) as there is an acute shortage of employment space in Todmorden and there are no new sites coming on stream in the draft Local Plan so do not support this application and would advise that it is refused..."*

Whilst the site is designated as a Primary Employment Area in the current Development Plan, this designation is not carried forward to the draft Local Plan (scheduled for adoption later in 2022). It is therefore necessary to establish how much weight should be attached to employment issues in the assessment of the application. The first point to make in relation to this is that there is no subsisting employment use or employment buildings on the site at the present time (or at any time since 2003); secondly, the draft Local Plan has reached an advanced stage in its examination and there have been no objections to deleting this site from PEA designation, so significant weight can be attached to this change of circumstances. Taking these two factors into account it is considered that the application no longer falls to be assessed against policies GE3 or E5 of the RCUDP. In this context, whilst the Business and Economy comments are noted, it is not considered that there are policy grounds to object to the development for employment reasons.

RCUDP Policy E 19 (Regeneration Priority Areas in the Upper Calder Valley) establishes that *"regeneration Priority Areas in the Upper Calder Valley are shown on the Proposals Map to stimulate vibrant mixed-use developments. Initiatives for improvements to infrastructure, the environment and the stock of land and buildings will be supported in order to improve economic and social prospects in the area. Development proposals should be focused towards benefiting the whole community and should not focus solely on residential use."*

Policy E19 is considered to be out of date because it is inconsistent with paragraph 123 of the NPPF, which states that *"local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:*

a) use retail and employment land for homes in areas of high housing demand..."

Further to the above, Regeneration Priority Areas have been overtaken by new urban regeneration initiatives, and there have been no objections to the deletion of this designation in the Draft Local Plan.

In view of the above commentary, it is not considered that significant weight should be attached to the expectation in policy E19 that *should not focus solely on residential use*.

Housing issues

Having regard to the commentary above, the application relates to a non-allocated site. Policy H9 (Non-Allocated Sites) of the RCUDP is therefore relevant. The aforementioned policy states that *"Proposals for residential development (including those for the renewal of a previous planning permission) on a non-allocated brownfield site or building for conversion will be permitted where:-*

- i. the site is located within easy walking distance of a bus stop or a railway station and, wherever possible, is within walking distance of local services (such as convenience shops, post-office, health-centre/surgery, primary school);*
- ii. existing and planned infrastructure can cater for the development, including the ability of schools in the area to accommodate additional pupils;*

- iii. *there are no physical and environmental constraints on development of the site, including flood risk;*
- iv. *the development creates no unacceptable environmental, amenity, traffic, safety, or other problems;*
- v. *the development preserves or enhances Conservation Areas and does not adversely affect Listed Buildings or their settings, where these are material considerations;*
- vi. *the development complies with the requirements of other relevant UDP Policies.”*

As it relates to a brownfield site, the development benefits from in-principle support from policy H9. The detailed policy criteria are considered under the relevant sections elsewhere in this report.

Whilst the RCUDP does not have a ‘saved’ policy covering affordable housing, the draft Local Plan sets a threshold of 15 dwellings above which a contribution to AH is expected. At 12 dwellings, the current application falls below this threshold; however, in relation to ‘major’ development (i.e., > than 10 dwellings), the NPPF states:

65. Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.

It is therefore considered that 1 home should be made available for affordable home ownership, which would be secured through a section 106 agreement.

Residential Amenity

Policy BE2 establishes that development should not significantly affect the privacy, daylighting or amenity space of existing and prospective residents and other occupants. Annex A of RCUDP sets out guidelines to help assess whether such impacts arise.

The design and layout of the development is such that the minimum distances set out in Annex A are either met or exceeded. The development therefore complies with policy BE2.

The application site is located within an area characterised by a mix of residential and commercial uses, including bicycle workshop premises to the West of the site – separated from the proposed houses by back gardens and an access road. It is not apparent that existing conflicts exist between the aforementioned uses; however, in order to ensure compliance with RCUDP policy EP8, a condition is recommended to mitigate potential noise disturbance.

Layout, Design & Materials

RCUDP Policy BE1 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.

- vii. RCUDP Policy BE 3 (Landscaping) states that ***“Development proposals will be required, where appropriate, to be accompanied by landscaping schemes that include good quality hard and soft landscaping. They should be designed as an integral part of the development proposal and should contribute to the character and amenity of the area and, where possible, enhance local biodiversity...”***

The site layout reflects the limited dimensions of the site and the position of the access. It does however include a pedestrian link to Mill Bank Close and a small, landscaped amenity area. The future maintenance of the landscape area is the subject of a recommended condition. The houses would be set back from the road with (permeable) block paved drives and landscaped gardens to the front. Reasonably sized private gardens will be provided to the rear of the houses.

The proposed houses are of relatively modest proportions and incorporate features reflecting the local vernacular. The houses would be finished in natural stone and slate.

The overall impact of the development on the area is considered to be a positive one – certainly it would be a visual improvement on the existing vacant site or the fallback position of the industrial units. In this regard the development now proposed will certainly have a more harmonious relationship to Mill Bank Close. The application therefore complies with policies BE1 and BE3.

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

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

The above advice will be passed to the applicant by way of an informative attached to the decision notice.

RCUDP Policy EP 15 (Development Alongside Waterways) establishes that “development proposals alongside canals and rivers should maintain or, where practical, make a positive contribution to their recreational, tourist or environmental value by:-

- retaining and/or improving public access, including access by disabled people, to and alongside the waterside, with, where feasible, new rights of way, with cantilevers where appropriate;
- opening up the waterside where possible, and subject to conservation and other UDP considerations, by the orientation of frontages towards the waterside;
- retaining and/or improving the potential for navigational use;
- conserving the ecological and heritage value of the waterway and its surroundings;
- conserving the character and setting of the waterway; and
- incorporating appropriate quality landscaping.

The application site is located at a lower level than the Rochdale Canal and would not affect it physically. There is no existing access to the towpath from the site and it is not considered physically practical to create a new access. The proposed development will however have a positive impact on the setting of the Canal by building back the urban fabric. In this respect it is also considered that the proposed development would relate more favourably to the Canal compared with the extant permission for industrial units. As indicated above the development incorporates appropriate quality landscaping, and this will impact positively on the Canal setting.

Overall, it is considered that the application complies with Policy EP15.

The Canal and Rivers Trust was consulted on the application and whilst they have not objected to the application, they have requested conditions to protect the structural integrity of the Canal and also in relation to landscaping and boundary treatment. The first condition is considered necessary;

however, in relation to landscaping/boundary treatment, private gardens would adjoin the canal wall, and the layout plan states that the existing boundary wall and hedge will be retained to the Canal. A condition covering the second matter is not therefore considered necessary.

Heritage Assets

The development is located outside but immediately to the South of Todmorden Conservation Area. Policy BE 18 (Development within Conservation Areas) states that *the character or appearance of Conservation Areas, defined on the Proposals Map, will be preserved or enhanced. New development and proposals involving the alteration or extension of a building in or within the setting of a Conservation Area [Underlining added] will only be permitted if all the following criteria are met:-*

- i. the form, design, scale, methods of construction and materials respect the characteristics of the buildings in the area, the townscape and landscape setting;*
- ii. the siting of proposals respects existing open spaces, nature conservation, trees and townscape/roofscape features;*
- iii. it does not result in the loss of any open space which makes an important contribution to the character of the Conservation Area or features of historic value such as boundary walls and street furniture; and*
- iv. important views within, into and out of the area are preserved or enhanced.*

The requirements of Policy BE18 need to be read in the context of the legal and policy requirements explained in the NPPF:

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

200. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

At the current time the application site detracts from the character of the Conservation Area in the sense that it represents an unattractive gap in a location that was historically built-up. The development will rebuild physical townscape in this location. Whilst the historic built form was a mill building, the proposed houses incorporate natural local materials, vernacular design features, and are of appropriate scale.

Overall, the setting of, and views into and out of the Conservation would be enhanced by the development and as such policy BE18 and the requirements of the NPPF would be satisfied.

Density and mix of house types

Policy H10 of the RCUDP expects a net of development exceeding 30 units per hectare in order to ensure efficient use of land; Policy H11 of the RCUDP seeks a mix of house types in terms of size, type and affordability.

The density of the development is approximately 40 units per hectare and therefore complies with policy H10.

The development comprises of both detached and semi-detached properties. Given the preponderance of terraced houses in the area, the development improves the overall mix and is therefore in accordance with policy H11.

Affordable housing is dealt with elsewhere in this report.

Sustainability

The application relates to a brownfield site in a very sustainable location, close to Todmorden Town Centre, shopping facilities and a frequent bus route, and it is therefore inherently sustainable. Further comments on public transport are set out under the Highways and Transport section of this report.

In terms of construction, it is considered relevant to draw Members' attention to recent changes to non-Planning legislation: Announced in Dec 2021, the uplift to Part L (Conservation of Fuel and Power) and F (Ventilation) of the Building Regulations and the new Parts O (Overheating) and S (Infrastructure for charging electric vehicles) came into effect on 15 June 2022. The Government intends that changes to Part L are a steppingstone to the introduction of the *Future Homes Standard* in 2025. To pass the new Part L Target Emission Rate, most new homes will need either heat pumps or gas boilers paired with renewable energy generation such as solar panels. To pass the new Part L Target Fabric Energy Efficiency rate, some new homes will need to have more insulation in their walls, which will make them thicker. The overall requirement of the revised Part L is a mandatory 31% cut in carbon for all new homes.

Whilst no decision is required from Members in relation to the paragraph above, it illustrates the manner in which Planning policy and Building Regulations operate in a complementary manner to deliver sustainable development.

Highways and Transport

RCUDP Policy BE5 seeks to ensure that new development provides for safe and efficient movement by pedestrians, vehicles and cyclists.

RCUDP Policy T18 sets out maximum parking allowances for new development.

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

The Assistant Director of Strategic Infrastructure was consulted on the application and commented as follows:

The 5.5m access road is acceptable although it is not clear how this will tie-in to the adjacent footway on the east side which has been set back from its original alignment. The 4.5m radius should be removed and replaced with a splayed layout with a level block paved continuation of the footway across the access, as at the adjacent site.

A single parking space at the semi-detached plots with additional communal parking is acceptable subject to details of how the communal parking would be managed and maintained once the plots have been sold.

The parking at plot 12 at the corner of Der Street and Derdale Street is not supported given the proximity to the junction, on-street parking and restricted visibility because of the adjacent fence. The layout should be revised to provide access to the parking internally.

Sheffield hoops are not acceptable for residential cycle parking provision. Cycle parking for residents should be secure and within the dwelling or garage. If external parking is to be provided, it should be within the demise of the dwelling and to the police Secured by Design standards.

The pedestrian route to Mill Bank Close needs to be widened to at least 2m. An application has been submitted to regularise the works at the adjacent site and to implement the highway works that were required for that development. That matter is ongoing. There will however need to be a 2m surfaced footway constructed along the adjacent site frontage up to Key Sike Lane so that this site has a continuous footway connection. This is because there is no certainty that those works will be completed before this development is built. That can be dealt with by a condition requiring the works prior to occupation; this would also address the matter raised earlier regarding the footway tie-in at the access.

There is level bin access to the rear for all properties so further details of refuse bin storage is not required. The proposals are acceptable subject to a revised layout addressing the above matters being submitted and a number of requested conditions.

With the exception of the parking for plot 12, the matters raised above by the ADSI are the subject of recommended planning conditions. Further amendments have been requested to address the parking and members will be updated at the Committee meeting. On this basis the application complies with Policies T18 and BE5 of the RCUDP.

The West Yorkshire Combined Authority were consulted on the application, in their capacity as the strategic transport authority for West Yorkshire, and commented as follows:

The site is located within the recommended 400m from the nearest bus routes that operate on Halifax Road. We generally take a pragmatic approach to walk distances to take the size and location of development sites into account. When doing so, we also have to consider the development type and the level and quality of service (frequency and destinations served) at the destination bus stop.

Bus services which operate on Halifax Road include the 590/592 which operate between Halifax and Todmorden at a 15 minute frequency, extending hourly to Rochdale and Burnley. The bus availability for the site is therefore considered to be acceptable. The size of the development is unlikely to change the bus route of frequency.

The closest bus stops on this corridor 19878 and 19879 do not have shelters. As part of this scheme, a bus shelter could be provided at the above named stops at a cost of £13,000 each to the developer to improve the public transport offer. In order to access this stop, safe and direct pedestrian links are required.

To encourage the use of sustainable transport as a realistic alternative to the car, the developer needs to fund a package of sustainable travel measures. We recommend that the developer contributes towards sustainable travel incentives to encourage the use of sustainable modes of transport. Leeds City Council have recently introduced a sustainable travel fund. The fund can be used to purchase a range of sustainable travel measures including discounted MetroCards (Residential MetroCard Scheme) for all or part of the site. This model could be used at this site.

The payment schedule, mechanism and administration of the fund would have to be agreed with Calderdale Council and WYCA and detailed in a

planning condition or S106 agreement. As an indication of the cost should the normal RMC scheme be applied based on a bus only ticket, the contribution appropriate for this development would be £6,138.00. This equates to bus only Residential MCards...

The MetroCard and bus stop contribution would be included within the Section 106 agreement.

Flooding and Drainage

RCUDP Policies EP14 and EP20 establish that ground and surface water will be protected, and development will not be permitted if it would increase the risk of flooding due to surface water run-off or obstruction. 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.

Sustainable Drainage Systems should be incorporated where appropriate in accordance with RCUDP Policy EP22. For major developments, paragraph 165 establishes that sustainable drainage systems should be incorporated *“unless there is clear evidence that this would be inappropriate”*.

The site's situation in terms of its flood risk categorization is complicated by its history. The formal flood risk map shows most of the site as being flood zone 3a (high probability of flooding – average 1 in 100-year return period) and small area in zone 2 (medium risk – average 1 in 200-year return period). However, the ground levels of the site have recently been raised in accordance with the Flood Risk Assessment accompany the 2003 planning application (covering the application site and the adjacent Mill Bank Close).

The topographical survey accompanying the current application shows an existing (i.e., raised) mean average ground level of **124.65 AOD**. The applicant's Flood Risk Assessment states that

Environment Agency flood modelling identifies the nearest Node Point to the site Ref EA1231293 ROCA0115223u. This Node Point is identified on the Node Reference Map that is located on the canal towpath on the southern boundary of the Application Site...

The table below is an extract from the Environment Agency data for the above-mentioned Node Point:

EA1231293 ROCA0115223u		
ReturnPeriod	Level	Flow
2	124.39	2.09
5	124.43	2.26
10	124.46	2.34
25	124.49	2.45
30	124.5	2.57
50	124.52	3.12
75	124.56	3.42
100	124.58	3.58
100 +CC	124.62	3.89
200	124.62	3.9
1000	124.65	4.17

It can be seen from the table that the ground level of the site has been lifted above either the 1 in 100-year plus climate change or 1 in 200-year flood levels.

The Environment Agency initially made a holding objection to the application; however, in the light of further clarification from the Council confirming the lawfulness of the raised ground levels, and additional information from the applicant, this objection was withdrawn subject to a condition that: *the development shall be carried out in accordance with the submitted flood risk assessment, dated*

March 2020, and Addendum to Flood Risk Assessment, dated 15 March 2022, and the following mitigation measure detailed within: Finished floor levels shall be set no lower than 125.30 metres above Ordnance Datum (AOD).

Because the site has been lawfully lifted out of Flood Zone 3 it is considered that the sequential and exception tests are not required.

In terms of drainage, the design of the foul and surface water drains has been submitted with the application. including layout, levels, falls, attenuation, and hydraulic flow calculations. Drainage of foul and surface water is proposed to connect to the existing sewers in Derdale Street and this has been agreed by Yorkshire Water. Whilst the development incorporates areas of permeable hard surfacing, the site does not lend itself to more extensive sustainable drainage interventions such as ponds and swales.

Overall, it is concluded that the proposal complies with Policies EP14, EP20 and EP22 of the RCUDP.

Education

There is a shortage of secondary places within the area. Todmorden High has been oversubscribed for the last few years and the projections indicate that the figures are set to increase. A contribution of £37,234 for Secondary provision is therefore requested. This contribution will be included within the Section 106 agreement.

Ground conditions

RCUDP Policy EP 9 (Development of Contaminated Sites) establishes that *an applicant proposing development on a site where there is contamination or there is good reason to believe that contamination may exist, will be required to carry out a site contamination survey and prepare and supply to the Council, a report outlining the results of the survey and identifying any remediation measures that are required. Development will not be permitted unless practical and effective site measures can be carried out without placing the development and its users and adjoining land at risk. Permission for development will be conditioned to ensure the approved remediation measures are completed prior to the commencement of any development.*

The application was accompanied by a combined Phase 1 Desk Study and Phase 2 Intrusive Survey. The survey makes recommendations but does not identify any problematic constraints on development. The application therefore complies with Policy EP9 subject a condition requiring the recommendations of the Phase 2 Survey to be implemented as the development proceeds.

Wildlife Conservation

RCUDP Policy NE 17 (Biodiversity Enhancement) establishes that development will be required where appropriate to enhance biodiversity. This links to the emerging requirement through the Environment Act and Government policy to demonstrate a net gain in biodiversity (BNG). This net gain can be on or off site.

The Canal immediately to the North of the site is a Locally Important wildlife site and the application site is within a wider area designated as Wildlife Corridor in the RCUDP. The site is also within the Bat Alert Area. RCUDP policies NE14 (Protection of Locally Important Sites), NE15 (Development in Wildlife Corridors), NE16 (Protection of Protected Species) and NE18 (Ecological Protection of Water Areas) are potentially relevant.

Notwithstanding the policies identified in the paragraph above, the site is largely devoid of significant features of ecological interest – for example trees and other vegetation, buildings, or water bodies. As indicated above, the hedge along the Canal towpath will be retained and there is no evidence that redevelopment of this brownfield site for houses and gardens would harm the ecological interest of the Canal corridor. It is not therefore considered that there are any conflicts with the policies identified above.

A condition is recommended requiring Biodiversity Net Gain to be demonstrated.

The Planning Balance

As stated at the beginning of the assessment, this is an application where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF taken as a whole. In this instance no adverse impacts have been identified that outweigh the benefits of delivering 12 new houses, which will increase the supply of housing sites and in the future contribute to housing delivery.

CONCLUSION

The proposal is considered to be acceptable subject to the conditions specified below and the legal agreement covering an education contribution; public transport contribution (bus stop improvement and MetroCard's); and affordable home ownership. The recommendation to GRANT planning permission has been made because the development is in accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan and National Planning Policy Framework set out in the 'Key Policy Context' section above and there are no material considerations to outweigh the presumption in favour of such development.

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

Date: 6 June 2022

Further Information

Should you have any queries about this application report, please contact:-

Richard Seaman 07932 101360

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. Before it is first brought into use, the development hereby permitted shall be constructed of natural stone and slate facing and roofing materials, as specified on the submitted plans and shall be so retained thereafter.
3. Prior to each dwelling first being occupied the surface water drainage shall be provided in accordance with the approved drainage layout drawing revision A dated 8/1/2021, and so retained thereafter.
4. Prior to first occupation, the development shall be carried out in accordance with the submitted flood risk assessment, dated March 2020, and Addendum to Flood Risk Assessment, dated 15 March 2022, and the following mitigation measure detailed within: Finished floor levels shall be set no lower than 125.30 metres above Ordnance Datum (AOD).
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the dwelling and shall be so retained thereafter, unless any trees or plants within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased. These shall be replaced in the next planting season with others of similar size and species, (unless otherwise agreed in writing by the Local Planning Authority) and these replacements shall be so retained thereafter.
6. Prior to the development first being brought into a use a scheme for the long-term maintenance of the communal areas of landscaping shown on the approved layout plan shall be submitted to and approved in writing in by the Local Planning Authority. The approved scheme shall be implemented on approval and so retained thereafter.
7. No dwelling shall be occupied until the 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.
8. In connection with any garage, driveway, vehicle hardstanding or car-port hereby approved for construction within the boundary of a dwelling, prior to the occupation of that dwelling, there shall be installed a facility to permit the recharge of an electrical battery-powered vehicle. Unless otherwise required by the location the installation(s) shall comply with IEE regulations, IEC 61851-1 Edition 2, and BSEN 62196-1. The facility shall be so retained thereafter.
9. The development shall not be occupied until detailed drawings of the works to provide a footway on the south side of Derdale Street between Der Street and Key Sike Lane has been submitted to and approved in writing by the Local Planning Authority. The approved works shall then be constructed in accordance with the drawings prior to the development being occupied.

10. Notwithstanding the provisions of Part 4, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, before construction works commence, details shall be submitted for the written approval of the Local Planning Authority in respect of the provision of a contractors' compound and staff car parking area within the site. Such details shall include the provision of protective fencing to the boundaries of the construction site. The details so approved shall thereafter be implemented in advance of construction works commencing and shall be retained for the duration of construction works unless otherwise agreed in writing by the Local Planning Authority.
11. Prior to commencement of works at the site, a scheme for the prevention of mud or other material being deposited onto the public highway, including full details of any equipment on the site used to clean the hardstanding areas, access, wheels and chassis of vehicles, equipment location and means of drainage, shall be submitted to and approved in writing by the local planning authority. The permitted scheme shall be implemented on commencement of works. The scheme shall be updated where the local planning authority consider mud on the road to be a recurrent problem by the operator or their agents in liaison with and to the written approval of the local planning authority. The updated scheme shall be implemented within a timescale to be agreed. In the event of mud or other material being deposited onto the public highway, immediate remedial and preventative action shall be taken, including suspension of operations if necessary.
12. 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.
13. Prior to the development first being occupied a scheme for the delivery of biodiversity net gain shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme so approved shall be implemented in accordance with the timescale specified therein.
14. Construction of the dwellings (with the exception of the footings) shall not begin until a noise attenuation scheme for protecting the occupiers of the dwellings from noise from nearby commercial uses has been submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall then be implemented prior to the first occupation of each dwelling and shall be retained thereafter.
15. The recommendations contained within the Phase 2 ground conditions survey accompanying the application shall be implemented as the development proceeds and fully completed prior to the first occupation of the development.
16. Prior to the first occupation of each dwelling secure cycle storage facilities shall be provided in accordance with details of location and design that shall first have been submitted to approved in writing by the Local Planning Authority.
17. Prior to the commencement of construction of units 1, 2, 3, and 4 shown on the approved layout plan, measures and design details to protect the structural integrity of the adjacent canal, towpath and retaining wall during construction shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not proceed other than in accordance with the approved details.

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 Policy BE1 of the Replacement Calderdale Unitary Development Plan.
3. To ensure proper drainage of the site and to ensure compliance with Policies EP20 EP22 of the Replacement Calderdale Unitary Development Plan.
4. To ensure that the properties are protected from flooding and to ensure compliance with Policies EP20 EP22 of the Replacement Calderdale Unitary Development Plan.
5. In the interests of amenity and to help achieve a satisfactory standard of landscaping and to ensure compliance with policies BE1 and BE2 of the Replacement Calderdale Unitary Development Plan.
6. In the interests of the amenity of the development and in order to ensure compliance with policy BE3 of the Replacement Calderdale Local Plan.
7. To ensure that adequate provision is made for vehicle parking clear of the highway in the interests of highway safety and to ensure compliance with T18 of the Replacement Calderdale Unitary Development Plan.
8. In the interests of sustainability and to ensure compliance with Paragraph 112 of Section 9 (Promoting sustainable transport), of the National Planning Policy Framework.
9. In the interests of highway safety and to allow for safe pedestrian access to and from the site and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
10. To ensure that adequate off-street parking is available during the construction period and in the interests of visual amenity and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
11. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
12. To ensure that adequate provision is made for vehicle parking clear of the highway in the interests of highway safety and to ensure compliance with Policy BE5 ; of the Replacement Calderdale Unitary Development Plan.
13. In the interests of biodiversity enhancement in order to ensure compliance with policy NE17 of the Replacement Calderdale Unitary Development Plan.
14. In the interests of the aural amenity of the development to ensure compliance with policy H9 of the Replacement Calderdale Unitary Development Plan.
15. In the interests of the safety of the development and in order to ensure compliance with policy EP9 of the Replacement Calderdale Unitary Development Plan.

16. In the interests of the sustainability of the development and in order to ensure compliance with Policy T18 of the Replacement Calderdale Unitary Development Plan.
 17. In the interests of the structural integrity of the Canal structure and in order to ensure compliance with paragraphs 170e and 178 of the National Planning Policy Framework.
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