

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

Date of meeting: 4 October 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 4 October 2022

Time & No.	App No.	Location	Proposal	Ward	Page No.
14.00	22/00747/HSE	1 Eldroth Road Halifax Calderdale HX1 3BA	Single storey rear extension	Skircoat	5 - 10
14.00	20/01294/FUL	Barn West Of Copperas Row Rochdale Road Greetland Elland Calderdale	Conversion of barn to dwelling (part retrospective)	Greetland And Stainland	11 - 20

Time Not Before: 14.00 - 01

Application No: 22/00747/HSE

Ward: Skircoat

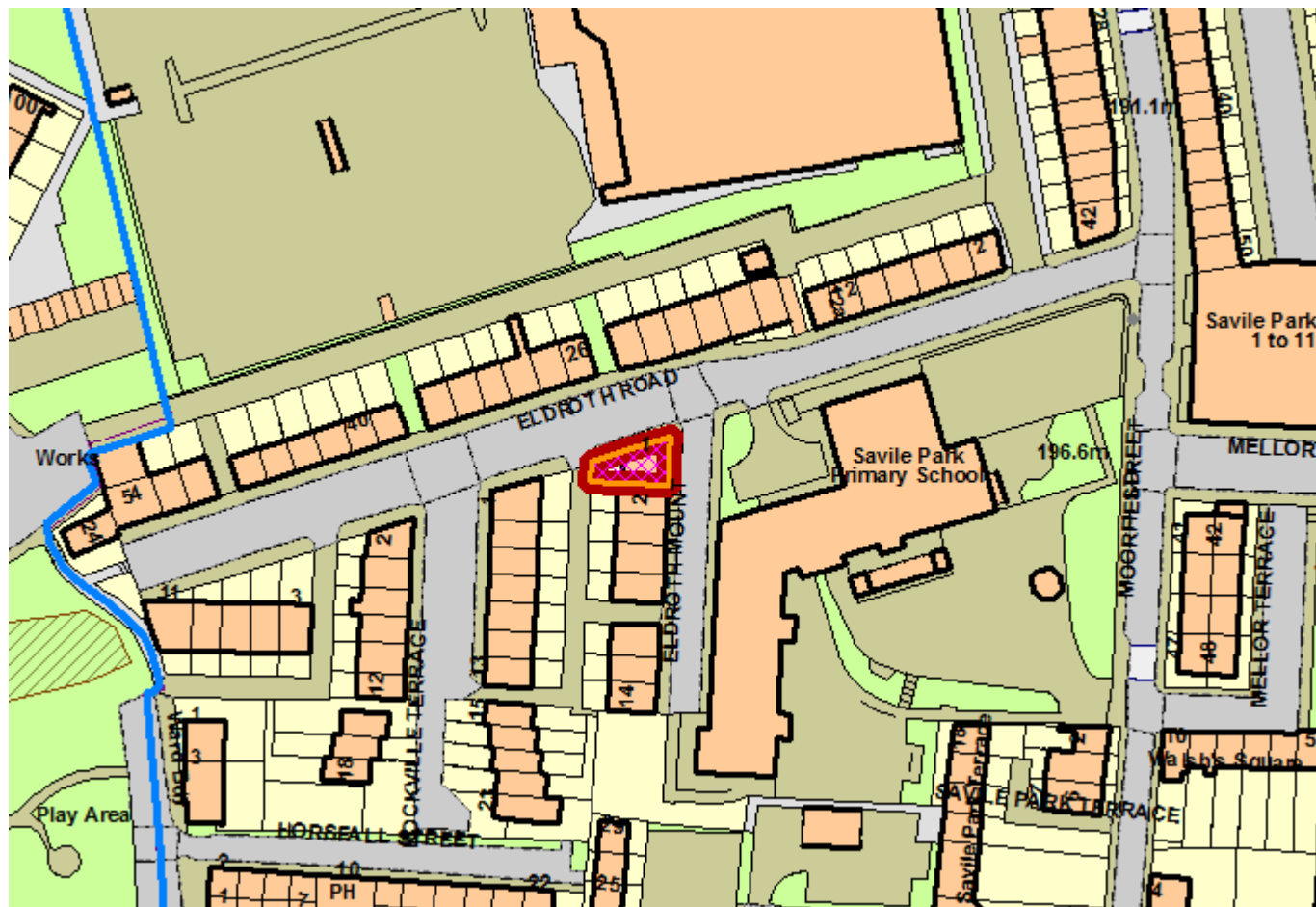
Area Team: North Team

Proposal:

Single storey rear extension

Location:

1 Eldroth Road Halifax Calderdale HX1 3BA



Applicant:

Mr Ishfaq Mahboob

Recommendation: **REFUSE**

Parish Council Representations:

N/A

Representations:

No

Departure from Development Plan:

No

Consultations:

Conservation Officers

Description of Site and Proposal

The site is located to the south of Eldroth Road within a residential area of Savile Park. The area consists of two-storey terraces and a primary school to the east of the site. It is within the Savile Park Conservation Area.

Planning permission is sought for a single storey rear extension.

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

An application for dormer extension to front and rear elevations, porch to main side entrance door and single storey kitchen extension to rear at the site was refused under delegated powers on 9 June 2022 (application number 22/00407/HSE). The reasons for refusal were that the development would be obtrusive in the streetscene and would not respect the established character of the area, and it would fail to enhance or preserve the character and appearance of the Savile Park Conservation Area.

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation/Allocation	Primary Housing Area Conservation Area
Replacement Calderdale Unitary Development Plan policies	H2 Primary Housing Areas GBE1 The Contribution Of Design To The Quality Of The Built Environment BE1 General Design Criteria BE2 Privacy, Daylighting and Amenity Space BE18 Development within Conservation Areas
National Planning Policy Framework Paragraphs / National Design Guide	12. Achieving well-designed places 16. Conserving and enhancing the historic environment
Other Material Planning Considerations	Climate Emergency Declaration (Jan 2019) Emerging Local Plan / NDP

Publicity/ Representations:

The application was publicised with site and press notices because it is in a Conservation Area.

No letters of objection or letters of support were received.

Ward Councillor Comments

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

"I am aware that the owner made a recent application regarding this and other work which was rejected (I believe that the dormers were unsuitable and spoke to the owner about this).

However, in relation to this application I have no such concerns as I don't think that the planned build is out of sorts with the area and would appear to be little more than a "lean to" from the outside.

In light of this, if the view is to refuse then can we please refer to Planning Committee for consideration."

Parish/Town Council Comments

The development is not located within a parished area.

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 revised NPPF was updated on 19 February 2019 and sets out the Government's planning policies for England and how these are expected to be applied, alongside other national planning policies. Paragraph 219 of Annex 1 (Implementation) of the NPPF advises to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

The 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...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.

Within the Primary Housing Area the improvement and extension of existing housing is acceptable in principle provided that there would be no unacceptable environmental, amenity traffic or other problems and the quality of the housing area is not harmed, in accordance with RCUDP Policy H2.

In this case it is considered that the proposed development would have a detrimental impact on the visual amenity and quality of the area, as such it would be contrary to Policy H2.

The proposed development is unacceptable in principle.

Impact on heritage assets

Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that in exercising functions with respect to any buildings or other land in a conservation area, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

The requirements of Section 72 are set out in legislation and as such they are legal duties rather than policy requirements that the Council can choose to attach limited weight to. This is reflected in paragraphs 199 and 200 of the NPPF, which states that:

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

“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. Substantial harm to or loss of:

(a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

(b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional”*

NPPF paragraph 202 goes on to state that:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

RCUDP Policy BE18 establishes that the extension or alteration of a building within the Conservation Area will only be permitted if it respects the characteristics of the buildings in the area, and other specified criteria.

The site forms part of a characterful pair of terraces that remain as built and intact at the rear, with an attractive setted route with views through from Eldroth Road. The character and appearance of the terraces make a positive contribution to the Conservation Area and its significance.

It is considered that the proposed extension, which would be 5.2m long and fill the external yard, would alter the character and appearance of the existing dwelling and the undisturbed terrace to the detriment of the Conservation Area. The extension is at the end of the street and is in a prominent position within the streetscene, and it would appear incongruous and highly conspicuous, harming the character and appearance of the terrace row and wider conservation area.

In terms of the NPPF the harm is considered to be less than substantial harm to the significance of the heritage asset. Nevertheless, NPPF paras 199 and 200 are clear that great weight must be given to the conservation of a designated heritage asset and any harm requires clear and convincing justification. Furthermore, NPPF para 202 requires the harm to be weighed against the public benefits of the proposal.

The dwelling already benefits from a reception room, lounge and kitchen at ground floor and the proposal is to provide a larger kitchen and lounge, it is considered that this does not constitute a public benefit that outweighs the harm to the significance of a heritage asset.

It is considered that the development would be contrary to RCUDP policy BE18 and the NPPF.

Layout, Design and 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.

The plans seek planning permission to construct a single-storey rear extension with a pitched roof constructed from natural stone and stone slate that measures 3.965m (width) extends 5.21m from the existing rear wall and 3.42m to the ridge height. It will facilitate a new kitchen space and will have rooflights installed for natural light offerings.

The extension would fill the external yard area with no amenity space provided. It is considered that the scale would be out of character with the original dwelling, as well as with the existing environment. As such it would appear as an incongruous addition within the streetscene.

It is considered that the development is contrary to policy BE1.

Residential Amenity

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

There are windows proposed on the side (south) and rear elevations of the extension. There is approximately 18m from the kitchen windows upon the side (north) elevation of the proposed extension and the front elevation windows of no26 & 28 Eldroth Road, however as the windows would be on a ground floor level, it likelihood of overlooking is limited and not considered harmful to the privacy.

However, the extension would fill the external yard area with no amenity space provided. The proposal would result in the loss of the amenity space for residents, which would be contrary to Policy BE2.

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 H2, BE1, BE2 and BE18 of the Replacement Calderdale Unitary Development Plan and paragraphs 199, 200 and 202 of the National Planning Policy Framework, nor have there been any material considerations to indicate that an exception should be made in this case.

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

Date: 11 August 2022

Further Information

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

Reasons

1. The proposed development would, in the opinion of the Local Planning Authority, by virtue of its design scale and location create an incongruous and highly conspicuous addition to the streetscene which would fail to enhance or preserve the character and appearance of the Saville Park Conservation Area in which the site is located and, as such, would be contrary to Policy BE18 (Development within Conservation Areas) of the Replacement Calderdale Unitary Development Plan and paragraphs 199, 200 and 202 of the National Planning Policy Framework.
 2. The single storey rear extension would be incongruous with the host dwelling and existing buildings in the near vicinity because of the design, scale and setting and would be obtrusive in the street scene and would not respect the established character of the surroundings. As such the proposed development would be contrary to Policy BE1 (General Design Criteria) of the Replacement Calderdale Unitary Development Plan and Section 7 (Requiring good design) of the National Planning Policy Framework.
 3. The proposed development would result in the loss of amenity space for the occupiers and future occupiers of the dwelling and would thereby be contrary to Policy BE2 of the Replacement Calderdale Unitary Development Plan.
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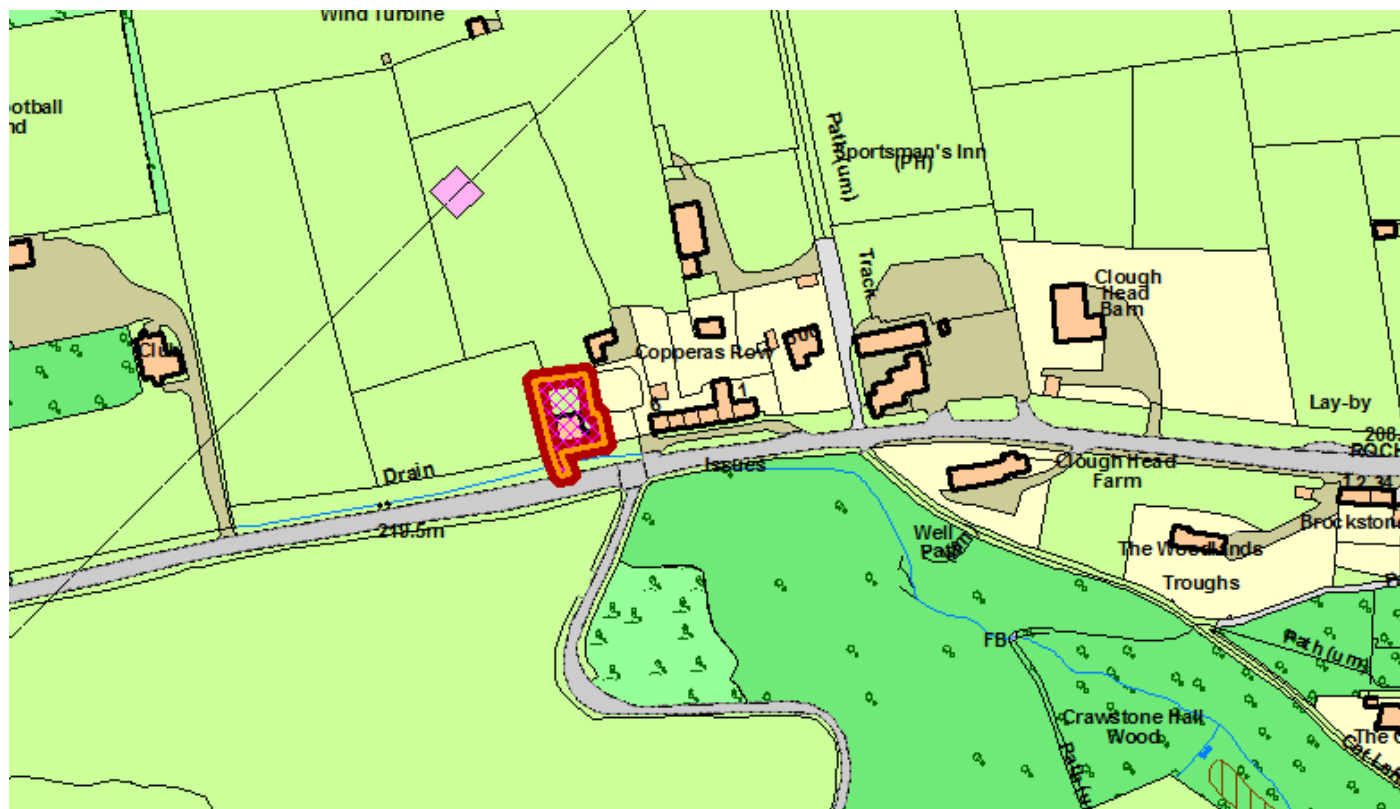
Time Not Before: 14.00 - 02

Application No: 20/01294/FUL

Ward: **Greetland And Stainland**
Area Team: **South Team**

Proposal:
Conversion of barn to dwelling (part retrospective)

Location:
Barn West Of Copperas Row Rochdale Road Greetland Elland Calderdale



Applicant:
Mr R Fairbank

Recommendation: **REFUSE**

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

Consultations:

Highways Section
Countryside Services (E)
Environmental Health Services - Pollution Section (E)

Description of Site and Proposal

The site is a former agricultural building, single storey in height constructed from a mix of red brick, natural stone and metal sheeting for the roof. It aligns with Rochdale road and is located in the south east corner of the field with an access to the left of the building. It lies to the west of a row of stone terrace dwellings known as Copperas Row.

The site formerly consisted of the agricultural building and associated hardstanding with an access from Rochdale Road but following a prior approval application works were undertaken to convert the building to a dwelling. However, the development was not constructed in accordance with the plans submitted for prior approval and subsequently the building was demolished and re-constructed, which is not allowed under Class Q, Part 3 of the General Permitted Development Order (2015) as amended, and therefore none of the development is lawful.

Retrospective planning permission is sought for the conversion of the building into a dwelling. The development included taking down of the roof and all of the walls (apart from one central one) of the agricultural building and their replacement with stone walls and concrete tile roof. The alterations differ to that approved under Class Q as the whole building was demolished and rebuilt slightly larger in scale.

Relevant Planning History

An application for the conversion of barn to dwelling was refused under delegated powers on 21st December 2007 (application number 07/02208/COU). The reason it was refused was that the building was not considered to be of a permanent and substantial construction and a considerable amount of re-building would be require.

An application for prior approval application to change of use from an agricultural building to dwelling (C3) was deemed as prior approval not required on 20th October 2016 (application number 16/56017/CLAS3Q).

Key Policy Context:

Replacement Calderdale Development Plan Designation	Unitary	Green Belt Special Landscape Area
Replacement Calderdale Development Plan policies	Unitary	GNE1 Containment of the Urban Area NE4 Conversion or change of use of buildings in the GB. H9 Non-Allocated Sites BE1 General Design Criteria BE2 Privacy, daylighting and Amenity Space BE5 The Design and layout of Highways and Accesses. T18 Maximum Parking Allowances EP14 Protection of Ground Water EP20 Protection from Flood Risk EP22 Sustainable Drainage Systems NE16 Protection of protected Species

National Planning Policy Framework	NE17 Biodiversity enhancement NE12 Special Landscape Areas T19 Cycle storage
	5 – Delivering a sufficient supply of homes 12 – Achieving well-designed places 13 – Protecting Green Belt Land 14. Meeting the challenge of Climate change, flooding and coastal change 15. Conserving and enhancing the natural environment
Other Constraints	Bat alert area
Other Material Planning Considerations	Climate Emergency Declaration (Jan 2019) Emerging Local Plan

Publicity/ Representations:

The application was publicised with five neighbour notification letters.

No letters of objection were received.

Parish/Town Council Comments

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

Ward Councillor Comments

Councillor Christine Prashard requests that the application is referred to Planning Committee, if the recommendation is to refuse and makes the following comments:

“NPPF Page 35 – making effective use of land – item 120c – Planning Policies and decision should give substantial weight to the value of using suitable brownfield land withi settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict contaminated or unstable land.

RCUDP Page 189 – Policy NE3 and Policy NE4 – Making effective use of land – turning an old building into a useable property which is generating an extra windfall property in line with the local plan.”

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) then sets out the Government’s planning policies for England and how these are to be applied, alongside other national planning policies. The NPPF advises that due weight should be given to

relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

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

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

The application site is land designated as Green Belt, and therefore the above presumption does not apply. That said it is still important to consider the extent to which the proposed development is sustainable in the context of the terms set out in the NPPF.

Along with other criteria relating to design, traffic, amenity or serving problems and impact on Listed Buildings, Conservation Areas or wildlife, RCDUP Policy NE4 establishes the conversion of buildings in the Green belt will be permitted provided they are of permanent and substantial construction and capable of conversion without major reconstruction, and that it does not have a materially greater impact than the present use on the openness of the Green Belt and the purposes of land in it. These two criteria are in accordance with paragraph 150 of the NPPF, which establishes that the re-use of buildings is not inappropriate development in the Green Belt provided that the buildings are of permanent and substantial construction.

Because the agricultural building has been demolished, the starting point for this development must be on the basis of new residential development in the countryside that is Green Belt, with no weight attributed to the existence of the previous agricultural buildings (as agricultural buildings cannot be considered to be previously developed land) or the Prior Approval that was previously granted. The original building was removed and therefore the Prior Approval is not capable of being implemented in relation to the agricultural building. Moreover, the time period to implement it has expired. It is established in planning case law that these cannot be treated as a fall-back position (as detailed below). The principle of development and the consideration of the impacts of the scheme must therefore be considered on the same basis of a greenfield undeveloped site in the Green Belt.

Whilst in essence the design maintains the form of the original building, it would appear that the elevations have undergone significant alterations, and it is not clear what of the original building remains. Under the previous prior approval application, the agent asserted that only one internal wall was to remain, and it was considered at the time that the replacement of exterior walls and roofs was permitted under Class Q, which allows for such development to the extent reasonably necessary for the building to function as a dwelling house.

However, after the decision was made a High Court case (*Hibbitt & Anor v Secretary of State for Communities and Local Government & Ors* [2016]) considered the meaning of the word “conversion”. The court concluded that the Inspector for the appeal decision in question did not misdirect herself in determining that a steel framed agricultural building would not be capable of functioning as a dwelling without substantial building works, including the construction of all four exterior walls, and that the distinction between a conversion and rebuild is implicit in paragraph 105 of the PPG, which states in relation to Class Q that it is not the “.... *Intention of the permitted development right to include the construction of new structural elements of a building*”. It was

argued that one reason for this conclusion is that a development that includes “new structural elements” is one that involves a degree of rebuild and is not a conversion.

In the case of this application the building was a more traditional agricultural building constructed from a mix of brick, stone with no steel frame.

Whilst the agent asserts that enough original building would remain to consider this development to be a conversion; taking the above into account, it is considered that the development undertaken does constitute rebuild rather than conversion. Whilst prior approval was granted under Class Q the development was not carried out in accordance with the plans approved or the criteria for permitted development, as the building had been demolished and rebuilt and as such it is not permitted development, and this does not constitute a true fall-back position. As such it is considered that the dwelling, constitutes a new building in the Green Belt.

Paragraph 149 of the NPPF establishes that new buildings in the Green Belt are inappropriate development, but it includes a list of exceptions that include the replacement of a building, provided the new building is in the same use and not materially larger, and the redevelopment of previously developed sites. In this case the replacement building is not in the same use, and as it is an agricultural building it is not a previously developed site. Therefore, the new building does not fall within the exceptions at paragraph 149, and it is inappropriate development.

Paragraph 137 of the NPPF states: *“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.”*

In terms of the visual element, (the visual element of the Green Belt is not an assessment of visual quality), the site was previously an agricultural open field with one low level single storey building. The development which has occurred harmfully impairs the visual aspects of the Green Belt through the introduction of a new residential dwelling, where none previously existed, through the urbanisation of the site with a dwelling, curtilage, surfacing and access road, boundary treatment and the overall change to the visually open appearance of this part of the Green Belt. In relation to an undeveloped site, the impact of one dwelling will result in a significantly harmful impact visually to the Green Belt.

As such, the development reduces the openness of the Green Belt both spatially and visually and conflicts with the fundamental aim of the Green Belt which is to keep land permanently open.

In relation to inappropriate development, the NPPF states that:-

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

Paragraph 148 of the NPPF states: - When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. “Very special circumstances” will not exist unless the potential harm to Green belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations

In the case of *Doncaster MBC v Secretary of State for the Environment, Transport and the Regions (2002)* (relating to an unauthorized gypsy caravan site), the court explained that it is very important that full weight is given to the proposition that inappropriate development is by definition harmful to the Green Belt. Relevant policy (at that time set out in PPG2, now expressed in

essentially same terms in the NPPF) is a reflection of the fact that there may be many applications in the Green Belt where the proposal would be relatively inconspicuous or have a limited effect on the openness of the Green Belt, but if such arguments were to be repeated the cumulative effect of many permissions would destroy the very qualities that underlie the Green Belt designation. Hence the importance, the court pointed out, of recognising at all times that inappropriate development is by definition harmful, and then going on to consider whether there will be additional harm by reason of such matters as loss of openness and impact on the functions of the Green Belt. It is therefore evident that an assessment of a proposed development's harm involves two separate considerations.

According to the NPPF, fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The NPPF (Paragraph 138) goes on to establish that the purposes of the Green Belt are:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land*

It is therefore concluded that the development is inappropriate development in the Green Belt. Paragraph 148 of the NPPF makes clear that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

Whilst some supporting information has been submitted in regard to other previous conversion schemes permitted by the LPA, this in itself does not demonstrate a case for Vary Special Circumstances. Every case must be on its own merits and the circumstances of this application are not deemed to be similar, given that this development constitutes a rebuild. It is considered that the applicant has not demonstrated a case for Very Special Circumstances in this instance.

Housing Issues

Paragraph 11, footnote 7 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, such as those relating to land designated as Green Belt.

The Council does not have a 5-year housing land supply. The current position is that Calderdale has 2 year housing supply. Notwithstanding this, the National Planning Policy Guidance establishes that unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt.

RCUDP policy H9 regarding housing on Non Allocated Sites is a principle consideration, however, in view of paragraph 11, it is recognised that it is now out-of-date and non-compliant with the NPPF, Although this policy is not an irrelevant consideration, one can infer from paragraph 213 of the NPPF that the weight to be given to policies will be less where they are not consistent with the

NPPF. It is also recognised that the policy is not consistent with the NPPF in respect of the reference to residential development only being acceptable on previously developed, brownfield sites. The NPPF encourages the re-use of brownfield land but does not preclude new residential development on undeveloped greenfield land.

The presumption in favour of sustainable development as set out in paragraph 12 of the NPPF does, however, not apply in this case as the site lies in the Green Belt where the Framework indicates development should be restricted. Instead, the guidance contained within Section 13 (Protecting Green Belt land) of the NPPF is relevant.

While the inability to demonstrate a 5 year supply of deliverable housing land is an important material consideration that weighs in favour of granting permission, a lack of 5 year housing land supply should not override all other considerations. It is necessary to consider all other relevant issues and weigh these in the overall planning balance.

Visual Amenity

Policy NE12 states that within Special Landscape areas, development which would adversely affect landscape quality will not be permitted. Special attention should be paid to conserving and enhancing the visual quality and minimising the environmental impact of development in the area through detailed consideration of the siting, materials and design of the new development.

It is noted above that whilst the application is a conversion of agricultural barn into a dwelling, the building has been demolished and reconstructed. That said the building is located on part of the same footprint of the former building and constructed from materials of natural stone and concrete tiles. The original building did have a number of windows on two of the elevations which have been scaled back to allow one window per room on the bedroom wing.

As such, it is considered that the development is acceptable with respect to design however, the scheme still introduces a new dwelling into the countryside which results in a harmful urbanising impact on the character and appearance of the area so in this respect proposal does not comply with the Replacement Calderdale Unitary Development Plan Policy NE12.

Materials, Layout, & Design

Policy BE1 seeks development that contributes positively to the local environment through high quality design, respecting the established character of the area in particular scale, design, materials, appropriate landscaping, being energy efficient and includes consideration for crime prevention.

Section 12 (Achieving well-designed places), paragraph 126 of the NPPF 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.

The existing building (prior to demolition) consisted of an agricultural building constructed from a mix of stone, red brick traditional Yorkshire stone and profiled metal sheeting roof which was a low pitched roof.

The building is an L-shaped building with a slighting higher roof pitch than on the previous building on what is to become the bedroom wing. It has been constructed from natural stone with a

concrete tile roof. The building will provide four bedrooms and family bathroom on one part of the building and on the L-shape part an open plan kitchen/dining/lounge with WC and utility room.

Whilst the development does result in a more domestic appearance than the original building because it is a simple design, especially when viewed from the roadside, it is considered that it would not result in substantial harm to the character of the area due to its location and is not entirely dissimilar to that which was allowed under the Part Q application.

The proposal is therefore considered to comply with the Replacement Unitary Development Plan Policy BE1 and Section 12 (*Achieving well-designed places*) of the NPPF.

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 sets out guidelines to help assess whether such impacts arise.

The proposed dwelling would be 21m away from the side elevation of 9 Copperas Row, separated by the garden area for 9 Copperas Row which has substantial shrub hedging. There are no other dwellings in the immediate vicinity.

To the north – open fields

To the south – Rochdale road and fields beyond

To the west – open fields.

As such, the proposal would be considered acceptable in relation to Policy BE2 of the Replacement Calderdale Unitary Development Plan.

Highway Considerations

Policy BE5 seeks to secure highways and accesses whose design and layout ensure the safe and free flow of traffic in the interests of highway safety and to provide an attractive environment. Policy T18 seeks to ensure there is adequate off street parking facilities.

The existing access will be utilised and two parking spaces for the dwelling are proposed.

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 which is unlikely to have any detrimental effect upon the highway network..

Subject to condition, the proposal is therefore considered to comply with RCUDP policies BE5 and T18.

Paragraph 112 (e) of the NPPF establishes that development should be designed where practical to incorporate facilities for charging plug-in and other ultra low emission vehicles. In accordance with this, should planning permission be granted, 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.

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 the surface water run-off or obstruction. Sustainable Drainage Systems should be incorporated where appropriate in accordance with RCUDP Policy EP22.

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.

With regards to drainage the applicant proposes to connect to the mains drainage.

The proposal complies with policies EP14, EP20 and EP22.

Wildlife Conservation

Policy NE16 discusses the protection of protected species and establishes that development will not be permitted if it would harm the habitat requirements of legally protected, rare or threatened wildlife species and the species themselves unless provision is made to protect those species and their habitats.

RCUDP policy NE17 establishes that development will be required where appropriate to protect, maintain and biodiversity, to protect, restore and manage features of ecological importance and important species and their habitats; and create new wildlife habitats, especially where they will link to wildlife corridors or isolated habitats or create buffer zones.

The Council's Wildlife and Biodiversity Officer was consulted on the application and has made the following comments:-

"I consider the bat report to be satisfactory and I am satisfied that there is a low chance of an adverse impact on roosting bats or nesting birds providing mitigation is followed. I have the following recommendations based on those within the report: the installation of a permanent long lasting bat roosting feature and a long lasting house sparrow terrace."

Subject to conditions, the proposal is therefore considered to accord with RCUDP policies, NE16 and NE17 of the RCUDP.

Balance of Considerations

The new residential building is considered larger in scale and footprint than the original agricultural building, but is of the same design as that approved by the Part Q application.

On balance, and taking the above into account, it is considered that the development undertaken does constitute rebuild rather than conversion. Whilst prior approval was granted under Class Q the development was not carried out in accordance with the plans approved or the criteria for permitted development, as the building had been demolished and rebuilt and as such it is not permitted development.

It is therefore concluded that the development is inappropriate development in the Green Belt and paragraph 147 of the NPPF makes clear that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of

inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations. A case for Very Special Circumstances has not been demonstrated by the applicant. It is also considered that the development reduces the openness of the green belt and conflicts with the fundamental aim of the Green Belt which is to keep land permanently open.

As such it is considered that the dwelling, constitutes a new building in the Green Belt and is inappropriate development in the Green Belt and therefore considered to be unacceptable in principle and is not in accordance with Green Belt policy.

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 policy GNE1 of the Replacement Calderdale Unitary Development Plan and paragraphs 138, 147, 148 and 149 of the National Planning Policy Framework nor have there been any material consideration to indicate that an exception should be made in this case.

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

Date: 12th July 2022

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

Reasons

1. The site lies within the designated Green Belt in the Replacement Calderdale Unitary Development Plan wherein there is a presumption against development for purposes other than those categories specified in paragraphs 147, 148 and 149 of the National Planning Policy Framework, Section 13 (Protecting Green Belt Land) in order to assist in safeguarding the countryside from encroachment; and to retain the openness of the Green Belt.

The development involves the construction of a new dwelling in the Green Belt which does not fall within any of the exceptions as set out in paragraphs 147, 148 and 149 of the National Planning Policy Framework (NPPF). Given the proposed development falls outside these specified categories it therefore represents inappropriate development in the Green Belt, which is by definition harmful and should not be permitted unless there are very special circumstances to justify the development. In this instance a case for very special circumstances has not been demonstrated to justify an exception being made.

Furthermore, the new dwelling and associated infrastructure as a result of its siting would introduce an incongruous urban element in the open landscape harming the openness, character and visual amenity of the Green Belt. The harm caused by the inappropriate development is further compounded by the harm that would be caused to the openness and visual amenity of the Green Belt, and the reasons for including land within it. The application

is therefore contrary to policy GNE1 (Containment of the Urban Area) of the Replacement Calderdale Unitary Development Plan and advice contained within Section 13 (Protecting Green Belt land) of the National Planning Policy Framework.
