CALDERDALE METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE

WARDS AFFECTED: MORE THAN THREE

Date of meeting: 6 December 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 TELEPHONE :- 01422 392241
Corporate Lead
For Planning Services

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 6 December 2022

Time & No.	App No.	Location	Proposal	Ward	Page No.
1400 - 01	20/00841/HSE	84 Gibraltar Road Halifax Calderdale HX1 4HE	Demolition of existing garage to facilitate two storey side and single storey rear extensions (Amended scheme to 19/01185)	Park	5 - 13-
14.00 - 02	20/01294/FUL	Barn West Of Copperas Row Rochdale Road Greetland Elland Calderdale	Conversion of barn to dwelling (part retrospective)	Greetland And Stainland	14 -27
1400 - 03	21/00364/FUL	Land To Rear Of 4 Back Clough Northowram Halifax Calderdale	Residential development of 8 houses	Northowram And Shelf	28 - 42
1400 - 04	21/01250/VAR	Highroyd Farm Greetland Road Barkisland Sowerby Bridge Calderdale	Variation of condition 1 on planning application 18/00016/FUL - Revisions to the approved design and appearance; substitute drawing number S1188-02B for the approved plan	Ryburn	43 - 53

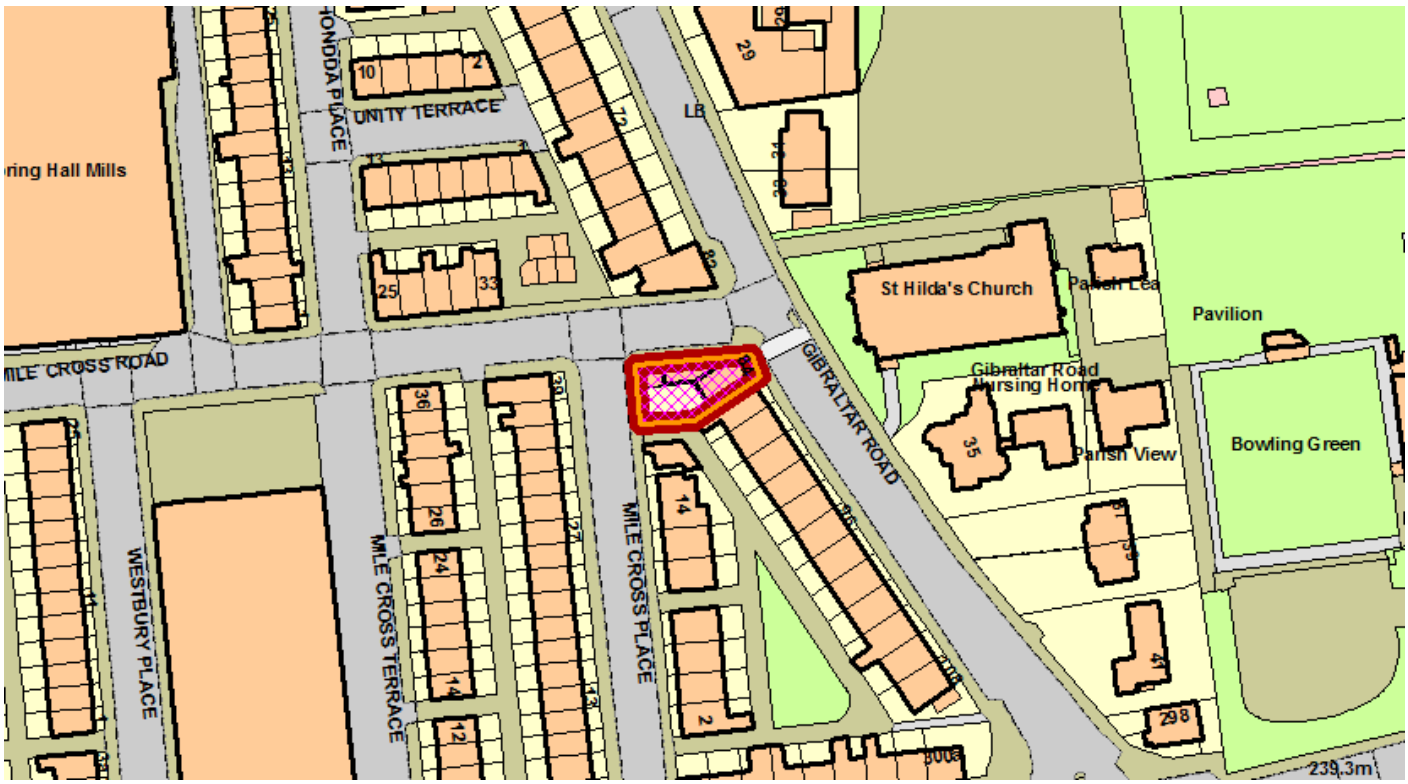
Time Not Before: 1400 - 01

Application No: **20/00841/HSE**

Ward: **Park**
Area Team: **North Team**

Proposal:
Demolition of existing garage to facilitate two storey side and single storey rear extensions (Amended scheme to 19/01185)

Location:
84 Gibraltar Road Halifax Calderdale HX1 4HE



Applicant:
Mr Adnan Rashid

Recommendation: **PERMIT**

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

Consultations:

Description of Site and Proposal

The site is an end dwelling forming part of an attractive early 1900s terrace of similar houses. The property occupies a prominent setting within the street scene at the junction of Gibraltar Road and Mile Cross Road within a well-established residential area.

The property has a garage building at the side of the dwelling running along the northern boundary of the site and the proposal is for a combination of two-storey and single storey extensions to the side and rear of the dwelling to replace the existing garage. The proposed extensions would provide enhanced kitchen, dining and living accommodation at ground floor level and two further bedrooms and a bathroom at first floor. This would increase the number of bedrooms from six to eight given the existing bedroom and bathroom arrangement over the first and second floors of the dwelling.

The application was presented at Planning Committee on 3rd March 2022 where it was deferred for the following reason:

"RESOLVED that the application be deferred to a future meeting of the Planning Committee to enable officers to clarify access and impact upon parking."

A revised scheme has been submitted to address concerns in terms of over development of the site resulting in insufficient provision for off street parking and an area of garden for private amenity within the domestic curtilage of the dwelling. The single storey element of the proposal to provide a new kitchen as shown on drawing 015-003 Rev F would be removed to provide sufficient space to park three vehicles and small area of garden area would remain for the use of the residents.

Whilst the recommendation has changed from refuse to permit, it is brought back to Planning Committee because it was deferred from a previous meeting.

Updates to the original officer's report are in bold.

Relevant Planning History

15/00603/HSE– This was an application for two small dormer extensions and a porch to the principal elevation. The proposed second floor plan showed two bedrooms formed at the front of the house with the benefit of proposed dormers. A further large dormer was indicated at the rear of the roofscape with an annotation to suggest that it would be applied for on a further application. Planning permission was granted and has been partially implemented. The dormers to the principal elevation have been installed although at a slightly wider proportion than approved, but the porch has not been added to front external entrance door. A substantial flat roofed dormer extension has been constructed on the rear which encompasses the majority of the rear roofplane however there appears to be no planning history for that structure.

19/01185/HSE– This was an application for a two-storey side and rear extension to replace the existing garage and a single storey rear extension. This scheme proposed a further three bedrooms and a bathroom at first floor with enhanced living, dining and kitchen accommodation at ground floor level. The side extension was proposed over two-storeys for the full depth of the structure. It was considered that this element would be contrary to policy BE1 of the RCUDP in terms of scale and massing and impact upon the established character of the street scene and also contrary to RCUDP policy BE2 in regard to potential overlooking and detriment to the private amenity of neighbouring dwellings along the terrace. Concerns were raised with the applicant's agent when it was suggested that the proposal be reduced to single storey for the entire scheme. The application was subsequently withdrawn pending resubmission of a revised scheme.

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation/Allocation	**Primary Housing Area**
Replacement Calderdale Unitary Development Plan policies	**H2** Primary Housing Area **BE1** General Design Criteria **BE2** Privacy, daylighting and Amenity Space **T18** Maximum Parking Allowances
National Planning Policy Framework Paragraphs/ National Design Guide	**12. Achieving well designed places**
Other Relevant Planning Constraints	None

Publicity/ Representations:

The application was originally publicised by 10 neighbour notification letters.

There was 1 letter of objection received. **Subsequent to the Planning Committee meeting, the letter of objection has since been withdrawn due to a mistake as to which property would be affected by the proposal and how that would impact upon the private amenity of the occupants**

Summary of points raised, in the original objection:

Objection

- Concerns with regard to potential overlooking and overbearing from the two-storey extension
- Concerns that the overbearing nature of the structure would impact upon the amenity and enjoyment of the rear garden which is currently in frequent use
- Reduction in value of their dwelling due to the proposed development – not a planning matter
- Loss of view – not a planning matter

Ward Councillor Comments

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

"Mr. Rashid has passed me your email, setting out your comments in respect of his application for a two-storey extension to his family home at 84 Gibraltar Road.
I know the area well, and in my view, many of the corner properties in and around Hopwood Lane, Gibraltar Road and Mile Cross Road have a profile not dissimilar to the one being proposed here. So I do not agree that it is out of keeping with the character of the surrounding area.
The site of the proposed extension at the junction of Mile Cross Road and Mile Cross Place is substantial, and both streets are relatively wide, which I think is significant in terms of its impact on neighbouring properties, which does not seem to me to be detrimental.
As ward member, I would like to ask therefore, that if you are minded to refuse this application, it should be referred to Planning Committee for determination".

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 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; 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 located within a Primary Housing Area where RCUDP policy H2 is relevant and states that the improvement and extension of existing housing will be permitted provided no unacceptable environmental amenity, traffic or other problems are created and the quality of the housing area is not harmed.

The proposal relates to a two-storey side and rear extension and a single storey extension on the rear elevation. Given the detailed considerations below in relation to design and residential amenity, it is considered that the proposal fails to meet the requirements of policy H2.

It is considered that the revisions shown on drawing 015-003 Rev H would simplify the previous design that was considered to present a development that would be incongruous within the street scene. On balance the changes shown on Revision H would go some way to addressing previous concerns in terms of policy BE1 of the RCUDP.

Residential Amenity

Policy BE 2 states that development proposals should not significantly affect the privacy, daylighting and private amenity space of adjacent residents or other occupants and should provide adequate privacy, daylighting and private amenity space for existing and prospective residents and other occupants. Annex A of RCUDP sets out guidelines to help assess whether such impacts arise.

The current application seeks planning permission for a proposal similar to the previously withdrawn application, 19/01185/HSE. Whilst reduced in massing compared to the previous submission, the side extension would still project from the rear elevation of the dwelling by approximately 8.0m. Annex A of the RCUDP sits alongside policy BE2 and provides additional guidance and standards on privacy, daylighting and amenity space to assist in evaluating the acceptability of development proposals. When considering extensions on through terrace dwellings, the advice states that any extension should not project further than 3m from the rear elevation. Annex A also sets out a table of distances between various types of window, when assessing the potential impact of development upon private amenity of neighbours.

The applicant's agent has annotated the site layout plan with distances between the proposed two-storey extension and dwellings to the west and the site boundary to the south. Whilst the distances would comply with the advice of Annex A, the arrangement of the rear gardens of dwellings along this section of Gibraltar Road and the rear of dwellings opposite along Mile Cross Place give the near vicinity an enclosed feel and this would be further exacerbated by the addition of the proposed two-storey element of the extension. The neighbour at 88 in her letter of objection, considers that the development would give a "claustrophobic" feel to her back garden if the development were to be constructed as submitted.

The single storey rear sunroom element to the scheme would have no detrimental impact upon neighbouring amenity as the adjoining dwelling has a similar extension at the same projection and the full height windows forming the new rear elevation would largely be screened by the existing boundary wall of the site and the nearest dwelling directly to the west of the proposed sunroom would be in excess of 25m therefore raising no concerns.

Given the assessment above in regard to impact upon the amenity of neighbours to the south-east of the site, the two-storey element of the proposal is considered unacceptable by way of overbearing and, as such would be contrary to the advice of Annex A and policy BE2 of the RCUDP.

It is acknowledged that the revision shown on drawing 015-003 Rev H has only removed the single storey kitchen element of the previous scheme and the two-storey side and rear structure would remain; nonetheless the revision does result in a much simpler design when viewed from the Mile Cross Road elevation. Furthermore, the removal of this element would allow provision of a small area of amenity space. On balance the changes shown on Revision H would go some way to addressing previous concerns in terms of policy BE2 of the RCUDP.

<u>Layout, Design & Materials</u>

Section 12 (Achieving well designed places) of the NPPF relates to ensuring the quality of design in development proposals and paragraphs 126 and 130 are relevant.

Para 126 concerns 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.

In line with paragraph 130 decisions should ensure that developments:
will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and are sympathetic to local character and history, including the surrounding built environment and landscape setting

Furthermore, 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 application seeks planning permission to further increase the living and bedroom accommodation to accommodate a large family.

The property forms part of an attractive turn of the century terrace of stone-built dwellings that is traditional to the area. Several of the houses have small extensions to the rear and a few have dormer extensions to allow for better use of the roof space as bedroom accommodation.

By virtue of its siting at the end of the terrace, together with the layout of the adjacent roads, number 84 Gibraltar Road benefits from a much larger rear garden area than other neighbouring dwellings. At the time of assessment and negotiation of application 19/01185/HSE for a similar, but more imposing scheme to the current proposal, it was suggested to the applicant's agent that there may be potential for a single storey extension to replace the existing garage to provide a larger kitchen and dining room, with the proposed single storey rear sunroom extension being attached to maximise the flow of the ground floor living accommodation. Whilst still offering a substantial addition to the dwelling, it would have a reduced visual impact upon the streetscene and the established character of the dwelling in comparison the then submitted scheme. This suggested revision was not submitted for consideration as the applicant thought that it would not fulfil the needs of his family.

It was considered that a two-storey extension running to the rear of the dwelling, angled away from the property and at a 4.5m projection would appear dominant to the original building. Furthermore, the massing of the extensions along the northern boundary with Mile Cross Road and the overly complicated roofscape resulting from the combination of ridge levels and existing roof structures, would appear overly conspicuous within the street scene.

It is acknowledged that the applicant wishes to provide suitable accommodation for his large family within his current residence, nonetheless consideration must be given to paragraph 130 of the NPPF, which seeks to ensure that developments add to the overall quality of the area, not just for the short term but over the lifetime of the development and are visually attractive as a result of good architecture and layout.

On the original assessment it was considered that the proposal would be contrary to RCUDP policy BE1 and Section 12 of the NPPF, particularly paragraphs 126 and 130 however, whilst marginal it is now considered that the proposed changes would provide a simpler profile to the extension that would be acceptable in terms of design and materials.

<u>Highways and Movement</u>

RCUDP policy T18 relates to off street parking and sets out maximum parking allowances for new development.

The dwelling currently has a single garage and an area of hardstanding that can accommodate parking for several vehicles away from the highway. Aerial photographs confirm that several vehicles use this area. The development would provide additional bedrooms which would increase the total number of bedrooms within the dwelling to eight. RCUDP policy T18 would require the provision of three parking spaces within the curtilage where a dwelling has more than five bedrooms. The applicant's agent has not detailed where the parking spaces would be provided but the provision for three parking spaces would leave little garden area/amenity space for the use of the residents. It is also considered that the siting of the proposed extensions would restrict the manoeuvring of vehicles within the site and safe egress onto the highway would be compromised.

The proposed off street parking provision included within the application would fail to comply with RCUD policy T18

The revised site layout now submitted on drawing 015-004 Rev E shows that three spaces can be achieved for parking within the site whilst still leaving a small area of private garden space. This layout is acceptable to The Assistant Director – Strategic Infrastructure (ADSI) (Highways). The revised layout would be supported subject to conditions that the height of the boundary walls be reduced to 900mm, and gates removed to allow for adequate sightlines to ensure compliance with policy BE15 of the RCUDP.

Planning Balance

The site lies within the Primary Housing Area and RCUDP policy H2 states that the improvement and extension of existing housing will be permitted provided no unacceptable environmental amenity, traffic or other problems are created and the quality of the housing area is not harmed. In addition, para 130 of the NPPF seeks to ensure that developments will add to the overall quality of the area, not just for the short term but over the lifetime of the development, be visually attractive as a result of good architecture and will be sympathetic to local character including the surrounding built environment.

The applicant has been developing the site for some time and planning permission was granted in 2015 for dormer extensions to the principal elevation to allow for the formation of additional bedrooms within the roofspace. A further large flat roofed dormer extension has been added to the rear elevation without planning permission and the arrangement of windows in that dormer would suggest that there is at least one further bedroom in addition to the two that were previously approved.

The proposed extensions, to the side and rear of the dwelling, shown on the latest revision to the current application, that would replace the existing garage with a substantial extension, at two-storey and a single storey sunroom extension to the rear are considered to largely address previous concerns and whilst still representing a substantial addition to the original dwelling, the resulting structure would be less conspicuous within the street scene than the former submission and would be similar in appearance to other large extensions within the vicinity. On balance, the revised proposal is considered to accord with National and Local Planning Policy.

CONCLUSION

The proposal is now considered to be acceptable. The recommendation to PERMIT planning permission has been made because the development is in accordance with policies BE1, BE2, BE15 and T18 of the Replacement Calderdale Unitary Development Plan and paragraphs 126 and 130 of the National Planning Policy Framework.

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

Date: 21 November 2022

Further Information

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

Sally Rose (Case Officer) on 01422 392266 or Claire Dunn (Lead Officer) on 01422 392265

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 facing and roofing materials to match the existing building, in terms of colour, texture, coursing and method of pointing, and shall be so retained thereafter.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (and any order revoking and re-enacting the order) no further windows or other openings shall be formed in the south facing elevation of the extension without the prior written permission of the Local Planning Authority.

4. The development hereby permitted shall not be occupied until the parking spaces shown on the permitted plans have been provided and sealed and made available for the occupiers of the dwelling. These facilities shall thereafter be retained.

5. Notwithstanding details shown on the approved drawings, the boundary walls adjacent to the highway shall not exceed 900mm in height and no gates shall be installed on the western boundary of the site fronting Mile Cross Place. This arrangement shall be so retained.

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 safeguard the privacy and amenity of occupiers of neighbouring properties and to ensure compliance with policy BE2 of the Replacement Calderdale Unitary Development Plan.

4. To ensure that adequate off-street parking is available for the development and to ensure compliance with policy T18 of the Replacement Calderdale Unitary Development Plan.

5. To ensure adequate visibility in the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.

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.

The application was presented to the Planning Committee on 4th October 2022, where it was deferred for the following reason.

"RESOLVED that consideration of the application be deferred for a reasonable period to be agreed between the planning officer and the applicant to enable the applicant to submit evidence that the dwelling is necessary for agricultural need. Once the information has been received and evaluated by planning officers or the time has elapsed whichever is the earlier, the application be returned to the next meeting of the Planning Committee for Members to consider."

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 Unitary Development Plan Designation	Green Belt Special Landscape Area
Replacement Calderdale Unitary Development Plan policies	**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 **NE17** Biodiversity enhancement **NE12** Special Landscape Areas **T19** Cycle storage
National Planning Policy Framework	**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 Polices and decision should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate 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 Very 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.

Additional Information

At the previous Planning Committee, the members considered that more information was required in respect of the farming business and the justification for the need for the dwelling in relation to the farm holding and the family farming business.

Although the proposal now relates to a new dwelling, which is not in the list of exceptions identified in the NPPF, the additional information submitted has changed the application to essential accommodation for agricultural workers in association with the existing agricultural use of the surrounding land and buildings, (I.e., the family business at Bank Top Farm). Should this need be demonstrated, then this may be considered to amount to very special circumstances to justify the inappropriate development within the Green Belt.

Planning practice Guidance (PPG) on rural housing provides guidance on how the need for isolated homes in the Countryside for essential rural workers can be assessed. It states

"Considerations that it may be relevant to take into account when applying paragraph 79a of the NPPF could include:

- ***evidence of the necessity for a rural worker to live at, or close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products);***
- ***the degree to which there is confidence that the enterprise will remain viable for the foreseeable future;***
- ***whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;***
- ***whether the need could be met through improvements to existing accommodation on the site, providing such improvements area appropriate taking into account their scale, appearance and the local context; and***
- ***in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.***
- ***employment on an assembly or food packing line, or the need to accommodate seasonal workers, will generally not be sufficient to justify building isolated rural dwellings."***

Land Holding:

RCUDP policy GNE1 states that a Green Belt will be maintained around the main built-up areas and seeks to restrain development outside the urban areas through the general extent of the Green Belt.

A map identifying the extent of land owned and rented as part of the applicant's agricultural activities have been submitted. The land associated with the farming business amounts to 70 acres (28.3 hectares). All the land is down to grass for livestock-grazing and silage/hay. Around 50 acres of land adjoins the farm complex at Bank Top Farm and a further 20 acres in two parcels of land off Rochdale Road (adjoining and close to the proposed dwelling). A further 23 acres (9.3 hectares) of land is rented locally (Norland & Elland) which is cut for silage, this land has been rented for over 20 years by the family farming business.

The Defra holding number for the farming business is 49/349/0943.

Existing farm business

The farming business is a family partnership, which trades as J O Fairbank & Sons. The partners are Mrs Fairbank, Richard and Karl Fairbank (i.e. mother and two sons). Richard Fairbank is the applicant.

The main farm is based at Bank Top Farm, Greetland, where there is a range of buildings for the livestock. The family have been farming Bank Top Farm for the past 59 years. Up until 2016 the farm was run as a dairy cow farm producing milk from up to 90 cows, with the milk processed and bottled and sold locally via milk rounds as part of the family business. However, due to the reduction in family members who worked on the farm/milk-rounds, the farming had to change, hence the move into beef cattle.

The current business is run and managed by Karl and Richard Fairbank and Mrs Fairbank. The farming business has all the necessary equipment for the field operations on the farm.

Livestock

The farming business is now based around the management of the grassland and the running of a herd of 80 suckler cows.

No labour calculation for the farm has been provided by the applicant which would show a labour requirement for the farm in relation to the existing land and the land east of Copperas Row. No financial records have been provided to indicate the health or otherwise of the applicant's business accounts.

Existing Farm Buildings

This current location which seeks permission for the agricultural workers dwelling currently has no agricultural buildings on the land.

Need for New Dwelling

There is some information about farm accommodation explaining that Mrs Fairbank (Mother) and Karl Fairbank live in the farm dwelling at Bank Top Farm and that Richard Fairbank (applicant) with his wife and family live in a static caravan on the land north of Rochdale Road, adjacent to the proposed dwelling, and have done so for the last 2 and half years. However, no information has been submitted which shows the use of all the buildings on the site at Bank Top Farm which help justify if there is a need for a further agricultural dwelling.

The applicant considers that the location of proposed dwelling is the ideal siting for a dwelling for the applicant as per the running of the family business. Karl Fairbank as per the running resides at dwelling at Bank Top Farm and can therefore oversee the farming activities at the farmyard. Whilst the applicant is closely located (presently in the static caravan) and on hand to oversee the management of the spring calving suckler cows on the grazing land of Rochdale Road. The off-lying parcels of land (for the calving of the suckler cows) are 1.5 miles from the farm complex and the dwelling at Bank Top Farm.

According to the applicant suckler cows need close attention during calving and soon after birth, to attend to any issues in relation the cow and the new-born calf. Regular visits and supervision is essential to minimise any complications during the later stages of pregnancy.

Given the established agricultural business and number of livestock, comments have been sought from the Animal Welfare officer on the justification and need for a new dwelling in the Green Belt for the applicant, which are provided below:

> ***"Calderdale have a number of livestock keepers that are unable to live on site and live a greater distance from the production unit without a negative impact on the welfare of the livestock.***
>
> ***To add to this I conducted a routine visit to the farm in May of this year and they're were cattle due to calve which were being kept on the land around the farm so I am not 100% confident with the justification for needing the dwelling at Rochdale Road."***

Given that there would be no negative impact on the welfare of the livestock, Officer's considers that a dwelling on this particular site is not essential for the continued viability of the farming business. Calderdale have a number of livestock keepers that are unable to live on site and live a greater distance from the main farming unit without having a negative impact on the welfare of the animals. Large farms with multiple acreage cannot possibly be within sight or sound of all their animals, but don't require a new dwelling because of this.

<u>Other Suitable accommodation in the area</u>

There has been no supporting information submitted which suggests that there are no adequate dwellings in the surrounding areas which are within sight and sound of the land and Farm.

There has been no assessment provided on this matter. However, the agricultural holding is less than 1/2mile from dwellings on Lindwell that is within reach of the main farm building where properties have been available for sale this last year.

The NPPF indicates, under paragraph 80, that LPAs should avoid isolated new house in the Countryside unless there are special circumstances to justify planning permission being granted. In this case, the applicant's supporting case is not considered acceptable, the applicant's existing family business Bank Top Farm is only 1.5m away from the application site and there is enough land around the existing farming business for the cows to be closely looked after. This does not fulfil the requirement of paragraph 80 of the NPPF, being the essential need for a rural worker to live permanently at or very near their place of work in the countryside.

Having applied the criteria in PPG 2019 relating to assessment for essential rural workers, it is considered that the requirement for a permanent agricultural worker's dwelling is not justified on this site and, as such, very special circumstances have not been provided for a new dwelling in the Green Belt.

Taking into account National and Local Policy the proposal is considered to be unacceptable under section 13 of the NPPF.

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 **[revised 25 November 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.

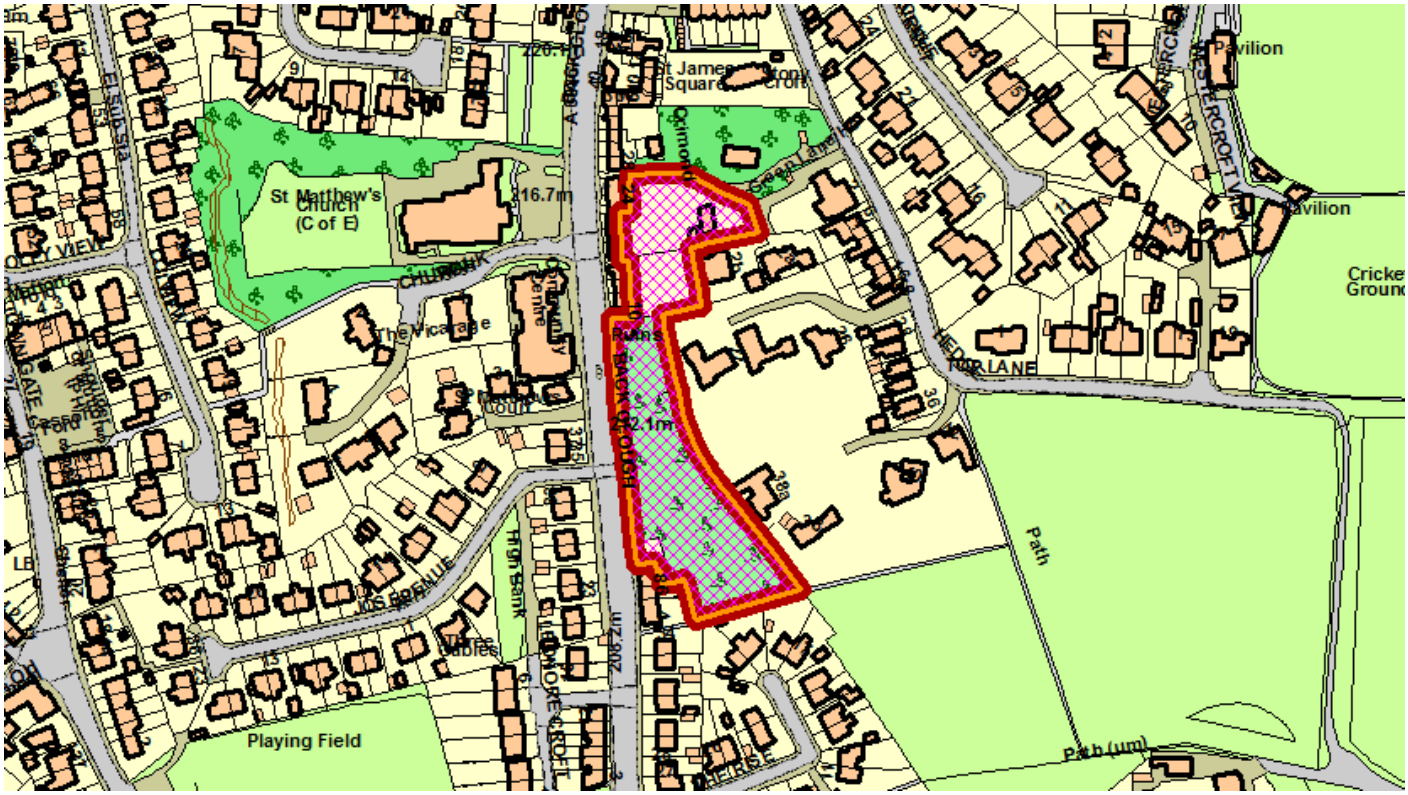
Time Not Before: 1400 - 03

Application No: **21/00364/FUL**

Ward: **Northowram And Shelf**
Area Team: **North Team**

Proposal:
Residential development of 8 houses

Location:
Land To Rear Of 4 Back Clough Northowram Halifax Calderdale



Applicant:
North Peak Properties

Recommendation: **PERMIT**

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

Consultations:

Highways Section
Environmental Health Services - Pollution Section (E)
Green Spaces And Street Scene
Housing Services
Lead Local Flood Authority
Education Services

West Yorkshire Police ALO
Yorkshire Water Services Ltd
Conservation Officers
West Yorkshire Combined Authority
Highways Section
Highways Section
Environmental Health Services - Pollution Section (E)
Green Spaces And Street Scene
Lead Local Flood Authority
West Yorkshire Police ALO
Yorkshire Water Services Ltd
Conservation Officers
West Yorkshire Combined Authority
Highways Section

Description of Site and Proposal

The site is located to the east of the main Bradford Road (A6036), in a well-established predominately residential area. The site is surrounded by a mix of residential properties to the north, east and south, whilst to the west alongside dwellings there are small commercial premises and a community centre. The very northern part of the site lies within the Northowram Village Conservation Area. The Grade II listed St Matthews Church lies approximately 60m to the northwest of the site.

The site is allocated for residential development (ref. LP0589) in the emerging Local Plan.

Planning permission is sought for residential development of 8 houses. Outline permission has previously been permitted for a residential development of a maximum of 10 houses (18/00061/OUT)

The application is accompanied by the following supporting documents:

- Heritage statement
- Bat assessment
- Design and access statement
- Air quality assessment
- Acoustic Report
- Flood Risk Assessment
- Ecology design strategy
- Highway statement
- Col Mining Report
- Acoustic Report

The application has been referred to Planning Committee due to the sensitive nature of the application.

Relevant Planning History

An application for the change of use from derelict land to temporary storage of caravans was refused under delegated powers 3rd September 1985 (application number 85/01483/COU).

An outline application for residential development (Maximum of 10 houses) was permitted under delegated powers on 24th January 2020 (application number 18/00061/OUT)

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation	**Primary Housing Area** **Conservation Area (small part – northern end of site)**
Replacement Calderdale Unitary Development Plan policies	**H2** Primary Housing Area **H9** Non-Allocated Housing Site **BE1** General Design Criteria **BE2** Privacy, daylighting and Amenity Space **BE3** Landscaping **BE4** Safety and Security Considerations **BE5** The Design and Layout of Highways and Accesses **T18** Maximum Parking Allowances **BE15** Setting of a Listed Building **BE18** Development Within Conservation Areas **EP14** Protection of Ground Water **EP20** Protection from Flood Risk **EP22** Sustainable Drainage Systems **EP9** Development of Contaminated Sites **NE16** Protection of Protected Species **NE17** Biodiversity Enhancement **NE21** Trees and Development Sites
National Planning Policy Framework Paragraphs	**5. Delivering a sufficient supply of homes.** **8 Promoting healthy and safe communities** **11 Making Effective use of land** **12. Achieving well designed places** **14 Meeting the challenge of climate change, flooding and coastal change** **15. Conserving and enhancing the natural environment** **16. Conserving and enhancing the historic environment**
Other relevant planning constraints	**Bat Alert Area** **Part of site in Northowram Conservation Area.** **Within 50m of grade II listed building HX5/123 – St Matthews Church**
Other material planning considerations	**Climate Emergency Declaration (Jan 2019** **Emerging Local Plan** **Emerging Neighbourhood Development**

	Plan

Publicity/ Representations:

The application was publicised with a site notice and 34 neighbour notification letters.

Eighteen letters of objection were received.

The scheme has changed from 14 houses to 8 houses and therefore the majority of objections relate to the larger scheme.

Summary of Points Raised:

- Concerns over turning head for large vehicles is within 2-3m of my lounge/bedroom windows and garden
- Loss of wildlife and biodiversity
- Turning head should be on the southern part of the site
- Scheme seems to ignore the Northowram conservation area
- Traffic on already busy road
- Overlooking
- Too many houses on small plot of land
- Impact on amenity of existing dwellings
- Density
- Loss of privacy
- Noise and disturbance while the houses are being constructed
- Design and appearance
- Entrance
- Mining
- Materials proposed not in keeping with surrounding area.

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 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…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.

In this instance the proposal lies partially within the Northowram Village Conservation Area.

The site is within a designated Primary Housing Area and a proposed New Housing Site in the emerging Local Plan (LP0589). RCUDP policy H2 is supportive of new housing in these areas provided it is on previously developed land and no unacceptable environmental, amenity, traffic or other problems are created, and the quality of the housing area is not harmed.

RCUDP policy H9 relates to residential development on non-allocated sites, and this is also supportive of such development on previously developed sites subject to a number of criterion.

As the site is previously undeveloped land there would be a conflict with policies H2 and H9, however it is considered that the policies are out-of-date for two reasons.

Firstly, it is recognised that the references in H2 and H9 to residential development only being acceptable on previously developed, brownfield sites, are not compliant with the NPPF. The NPPF encourages the re-use of brownfield land but does not preclude new residential development on undeveloped greenfield land.

Secondly, paragraph 11 (footnote 7) of the NPPF established 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. The current position is that Calderdale has a 2-year housing land supply.

The site is within a built-up residential area with access to buses on the main Bradford Road.

The scheme has been reduced from 14 dwellings to 8 dwellings and therefore the principle of the proposal is considered acceptable.

Impact on heritage assets

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

Section 72 of the Planning (Listed Buildings 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.

Decision makers must give importance and weight to the desirability of avoiding any harm to designated heritage assets, to give effect to the LPA's statutory duties under sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The finding of harm to a heritage asset gives rise to a strong presumption against planning permission being granted.

The requirements of Sections 66 and 72 are set out 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 paragraph 199 of the NPPF, which states:

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

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

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

In this instance, a <u>small part</u> of the site lies within the Northowram Village Conservation Area. The site is also approximately 60m at its northwest point from the grade II listed St Mathews Church.

Paragraph 197 of the NPPF states that:-

> *"In determining applications, local planning authorities should take account of:*
> *a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
> *b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
> c) *the desirability of new development making a positive contribution to local character and distinctiveness"*

Paragraph 200 of the NPPF states:

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

Policy BE15 of the RCUDP refers to the 'Setting of a Listed Building', whilst policy BE18 refers to 'Development Within Conservation Areas.'

The application is a full application for 8 dwellings with a mix of three house types. It is considered that the existing site does not make any particularly valuable contribution to the setting of the Listed Building given the separation by the main A6036. The development would be seen in the context of a continuation of the built environment that exists at present along the roadside. As such, some form of development at the site could be achieved without resulting in harm to the setting of the Listed Building, and the development would comply with policy BE15.

The part of the Conservation Area north of the site is characterised by linear settlement of terraced rows of cottages along the east side of Back Clough. Back Clough is mainly urban in character and the site appears as unmanaged open scrubland. The site does not contribute significantly to the setting of the Conservation Area however, key views north along Back Clough towards the historic village centre; the gateway into the Conservation Area are significant.

The stone boundary wall provides a distinctive and attractive local characteristic and is a positive addition to the street scene.

The Conservation Officer considers that sensitive site and layout design (discussed below) will minimise any effect of development, but there will remain a minor impact on the setting of the Conservation Area, due to change in character of the site. This is considered to be less than substantial harm.

The less than substantial harm is outweighed by the public benefit of housing provision and in accordance with paragraph 202 of the NPPF. Given the above, the proposal is considered to comply with policies BE15 and BE18 of the RCUDP and section 16 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 dwellings are all detached dwellings plots 1 and 2 face onto the rear of dwellings 18 and 19 The Rise, which have secondary windows at the rear, (although no. 19 has a conservatory at the rear). Plot 2 (House type B) has two lounge windows, study window and utility window at an angle from the rear of no. 19 The Rise. Annex A of the RCUDP requires a distance of 21m (main to main). The distance is approximately 17m, which gives a shortfall of 4m. However, no 19 is at an angle to the proposed dwelling and as there is a footpath separating the site along with a shed in the garden of no. 19, the distance is considered acceptable. With regards to no 18 and plot 1 (house type B) the proposed dwelling has lounge, study and utility and dining room windows and bedrooms above facing the rear elevation of no. 18 The Rise at a distance of 21m and at an angle to that dwelling and as such the distance is considered acceptable.

Plot 2 is the nearest dwelling to the rear of properties 4-8 Back Clough. The distance is 16.4m from the side elevation of the garage of the proposed dwelling. As such the distance required is 9m (secondary to side) and as such the distance is considered acceptable.

With regards to plot 3 the nearest dwelling is 38a Hedge Top Lane directly behind. 38a is a bungalow and has a substantial shrub hedge on its boundary with the proposed dwelling. As such the proposal is unlikely to cause any privacy or amenity issues with the dwelling behind.

With regards to plots 5-8 the plots looks onto both the garden and house of no. 22 Hedge Top Lane. However, there is a high hedge which is a substantial hedge along the boundary of 22 Hedge Top Lane and as such is unlikely to cause any privacy or amenity issues with the proposed new housing or that dwelling.

Given the above, the proposal is considered to comply with policy BE2 of the RCUDP.

Materials, Layout & Design.

Policy BE1 of the Replacement RCUDP 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 of the NPPF paragraph 126 states:

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

This current application relates to the construction of 8 dwellings with a mix of three house types all with associated gardens and parking areas.

House type D – Plots 2 and 3 is detached dwelling over three floors and includes an attached garage. It will provide lounge, hallway, wc, study, open plan kitchen/dining/living room and utility room on the ground floor and two en-suite bedrooms and further bedroom on the first floor along with a further bedroom/playroom and family bathroom. The rooms within the roofspace will provide three further bedrooms and family bathroom.

House type B – plot 1 is a large, detached dwelling with detached double garage. The ground floor will provide a lounge, hallway, wc, study, plant room and open plan kitchen/dining room. The first floor will provide four bedrooms and family bathroom with two further bedrooms and family bathroom within the roofspace.

House type C - plots 4 to 8 are detached dwelling over three floors. It provides an integral garage, utility room, kitchen and wc on the ground floor, lounge, study and en-suite bedroom on the first floor and four bedrooms and family bathroom within the roofspace.

The materials proposed for the dwellings are artificial stone and natural blue slate, however, whilst the area is home to a mix of design and given its proximity to the Conservation Area, nearby stone terraced dwellings and prominent buildings (The Community Centre, St Matthews Church), it would be expected that the development would make use of traditional materials. Whilst the use of natural blue slate is considered acceptable, the use of artificial stone is not considered acceptable and would detract from the character of the area. Natural stone is required on such a prominent location and therefore, a condition will ensure materials are submitted to ensure appropriate materials.

With regards to garden sizes, Paragraph A.5 in Annex A states that

> *"Private garden areas are normally expected to be provided in new residential developments. Ordinarily, these must be of an adequate size, shape and level and should be in proportion with the dwelling proposed, size of plot and general character of the area. However, these requirements must be offset against the desire to achieve higher density developments, which could result in the provision of small scale easily managed gardens and private amenity spaces."*

Gardens for each plot have been provided along with parking. As plots 1, 2 and 3 are the larger of the houses, the gardens are modest for the size of dwelling. With regards to plots 4-8 the garden sizes have been shown on the site layout as follows: -

- Plot 4 – 160m^2
- Plot 5 – 165m^2
- Plot 6 – 162m^2
- Plot 7 – 121m^2
- Plot 8 – 117M^2

It is noted that these sizes have included the parking areas, side gardens and front gardens. Whilst it is noted that some are small in scale, it is considered that the gardens do provide sufficient space for residents to sit out, hang washing, and for children to securely play, which is what would be expected from a garden. The gardens are not in proportion with majority of large, detached houses in the area, though it is noted that a more recent development to the north (Crimond Close, 15/01450/FUL) does have smaller gardens similar to this scheme. Nonetheless, it is considered that the garden sizes proposed are adequate having regard to the desire for higher density developments and the need for housing supply,

It is considered that 8 dwellings would make a positive contribution to the character and visual amenity of the locality, especially as the stone boundary wall fronting onto Bradford Road is being retained.

It is considered that the design, scale and massing of the dwellings as shown on plan subject to appropriate walling materials will respect the established character of the area and would not have a detrimental impact on the amenity of nearby residents.

Subject to conditions, the proposal accords with policies BE1 of the RCUDP and section 12 of the NPPF.

<u>Highway Considerations</u>

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 proposal provides an internal road with a turning head adjacent to plot 8. All plots have provided a garage for each dwelling.

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

> *"The requested 2m widened Back Clough footway has been provided along the full extent of the site frontage.*
>
> *The mews court type street serving plots 1 to 3 has been amended to provide a block paved surface.*
>
> *No details have been provided as to who will maintain the grassed area. However, the footway has been widened to 2m and the requirement to maintain visibility splays can be controlled by condition*.
>
> *The right turn lane on the A6036 Back Clough has been shown. These works are outside the red line so will need to be controlled by condition.*

The only outstanding issue is the turning head. There is no visitor parking so the area will probably be used for parking. 5m long parking spaces leading off the arms in a contrasting surface would address this. A swept path is also required indicating a large refuse vehicle can turn around in that area. Alternatively, the dimensions of a compliant turning head are shown on p61 of the 2009 Leeds Street Design Guide.

The proposal is acceptable subject to a revised drawing of the turning head with visitor parking and conditions."

Subject to the revised drawing and conditions, the proposal accords with policies BE5 and T18 of the RCUDP.

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

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. 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. In this instance the applicant is proposing to dispose of foul sewage and surface water via the mains sewer.

Subject to further details being provided as part of reserved matters application, alongside conditions, there are no objections in principle to the development and the proposal accords with policies EP14, EP20 and EP22 of the RCUDP.

Affordable housing

The scheme has been reduced in size from 14 to 8 dwellings. As such, there is no need to provide affordable housing with this application.

Education

The scheme has been reduced in size from 14 to 8 dwellings. As such, there is no need to provide education contributions with this application.

Public health, Land Contamination and Noise

One of the 12 core land-use planning principles set out at paragraph 20 of the NPPF is:
Take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

The Planning Practice Guidance establishes that when deciding whether air quality is relevant to a planning application consideration could include whether development would significantly affect traffic including generating or increasing traffic congestions, significantly changing traffic volumes etc. It is considered that the proposed development is well served by existing highway infrastructure and would not result in a significant impact on air quality from the resulting vehicle movements.

Notwithstanding this, the Air Quality & Emissions Technical Planning Guidance suggests that most developments, however larger or small, can "contribute to overall air quality and provides for a proportionate level of mitigation to be put in place to achieve sustainable development". In this case, facilities for charging plug-in and other ultra-low emission vehicles will be conditioned in accordance with paragraph 112 of the NPPF and it is considered that this would provide appropriate mitigation.

The site is in an area of potential contamination and policy EP9 is applicable. Policy EP8 is applicable as the site is adjacent to a classified A road and there is potential for noise from traffic.

- The Assistant Director – Neighbourhoods (Environmental Health) has been consulted and addressed these two issues.

> *"I am unable to see the phase 1 report however I agree with the conclusions discussed in the DAS based on historical maps. A phase 2 investigation is not required.*
>
> *The noise report concedes that significant attenuation measures are required given the proximity of Back Clough Road. These should be included by condition.*
>
> *I have no concerns regarding the air quality assessment.*
>
> *The developer has committed to include vehicle charge points at each dwelling. This should also be included as a condition*."
>
> *Further to my earlier comments I would like to request a number of comments.*
>
> *"The Noise Impact Assessment Report (Report Ref: P4682-R1-V1) contains a scheme of noise attenuation measures for each property. these should be included by condition:*
>
> *The details of the scheme so approved (Noise Impact Assessment Report (Report Ref: P4682-R1-V1)) shall then be implemented before the first occupation commences and shall be retained thereafter.*
>
> *The addition of electric vehicle charge points at each proposed dwelling should also be included."*

Subject to conditions, the proposal is considered to comply with policies EP8 and EP9 of the RCUDP.

<u>Security</u>

RCUDP policy BE4 establishes that the design and layout of new development should address the safety and security of people and property, and reduce the opportunities for crime.

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

CONCLUSION

The proposal is considered to be acceptable subject to the conditions specified. The recommendation to grant planning permission has been made because the development is in accordance with the policies and proposals in the 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: 25 November 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 392211

or

Claire Dunn (Lead Officer) on 07912 891544

Conditions

1. The development shall be carried out in accordance with the schedule of approved plans listed above in this decision notice, unless variation of the plans is required by any other condition of this permission.

2. Notwithstanding any details shown on the permitted plans, the facing of the development shall not begin until details of the facing material which shall be of regularly coursed natural stone (sympathetic in colour, coursing and texture to that used in the immediate vicinity), have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, it shall be constructed in accordance with the details so approved and so retained thereafter. The pointing shall be flush with the face of the stone or slightly recessed, ("ribbon" or "strap" pointing shall not be used) and shall be so retained thereafter.

3. Notwithstanding any details shown on the submitted plans, the roofing of the development shall not begin until details of the roofing material which shall be of natural blue slates have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the roofing of the development shall be constructed in accordance with the details so approved and shall be so retained thereafter.

4. No drainage works shall begin until full details of the foul and/or surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage and external works for the development (taking into account flood risk on and off site and including details of any balancing works, off-site works, existing systems to be re-used, works on or near watercourses and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.

5. Notwithstanding any details shown on the approved plans the site shall be built to "secured by design" standards as set out in the comments received by West Yorkshire Police on the 24th September 2021 and shall be so retained thereafter.

6. Prior to the construction of the access road details of the construction and specification for the access road 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.

7. The development shall not be brought into use until detailed drawings of the works within the highway to create the right turn lane on Back Clough have been submitted to and approved in writing by the Local Planning Authority. The works shall then be constructed in accordance with the drawings so approved prior to the development being brought into use.

8. The dwellings should not be occupied until sightlines of 2.4 x 43m have been provided in both directions at the centre point of the access road at its junction with the existing highway and these shall be kept free of any obstruction to visibility exceeding 0.9m in height thereafter.

9. No dwellings shall be occupied until the access road, car parking spaces and turning areas shown on the permitted plans have been fully constructed, sealed and made available for the occupiers of the dwellings. These facilities shall thereafter be retained.

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. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

13. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:
i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
ii) the means of discharging to the public surface water sewer network at a maximum rate of 3.5 (three point five) litres per second, and to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

14. The development shall not be occupied until details of the treatment of boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The treatments so approved shall then be provided in full prior to the first occupation of **** and shall thereafter be retained.

15. In connection with any garage, driveway, vehicle hardstanding or carport hereby approved for construction within the boundary of a dwelling, there shall be installed in an appropriate location a suitable 3.7 Kw facility to permit the recharge of an electrical battery-powered vehicle that may be used in connection with that dwelling. Unless otherwise required by the location the installation(s) shall comply with IEE regulations and BSEN 62196-1 for a mode 3 system.

16. Before the first occupation of the dwellings the glazing and ventilators so approved shall be installed and a written report of a suitably qualified noise consultant, to show that the specified noise levels have been achieved, this shall then be submitted to and approved in writing by the Local Planning Authority.

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 Policies BE1 and BE18 of the Replacement Calderdale Unitary Development Plan.

3. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policies Be1 and Be18 of the Replacement Calderdale Unitary Development Plan.

4. To ensure proper drainage of the site and to ensure compliance with Policies EP20 EP22 of the Replacement Calderdale Unitary Development Plan.

5. In the interests of crime prevention and to ensure compliance with policy BE4 of the Replacement Calderdale Unitary Development Plan.

6. To ensure that suitable access is available for the development and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.

7. In the interests of highway safety and to ensure compliance with policy BE5 of the Replacement Calderdale Unitary Development Plan.

8. To ensure adequate visibility in the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.

9. 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.

10. In the interests of highway safety and to achieve a satisfactory layout and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.

11. The development shall not begin until details of the phasing of construction of the development, including access roads (and parking areas) have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the phasing details so approved and shall be so retained thereafter.

12. 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.

13. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.

14. In the interest of satisfactory and sustainable drainage.

15. To ensure that no surface water discharges take place until proper provision has been made for its disposal.

16. In the interests of amenity and privacy and to ensure compliance with Policies BE1 and BE18 of the Replacement Calderdale Unitary Development Plan.

17. In the interests of sustainability and to ensure compliance with Paragraph 112 (e) of Section 9 (Promoting sustainable transport), of the National Planning Policy Framework.

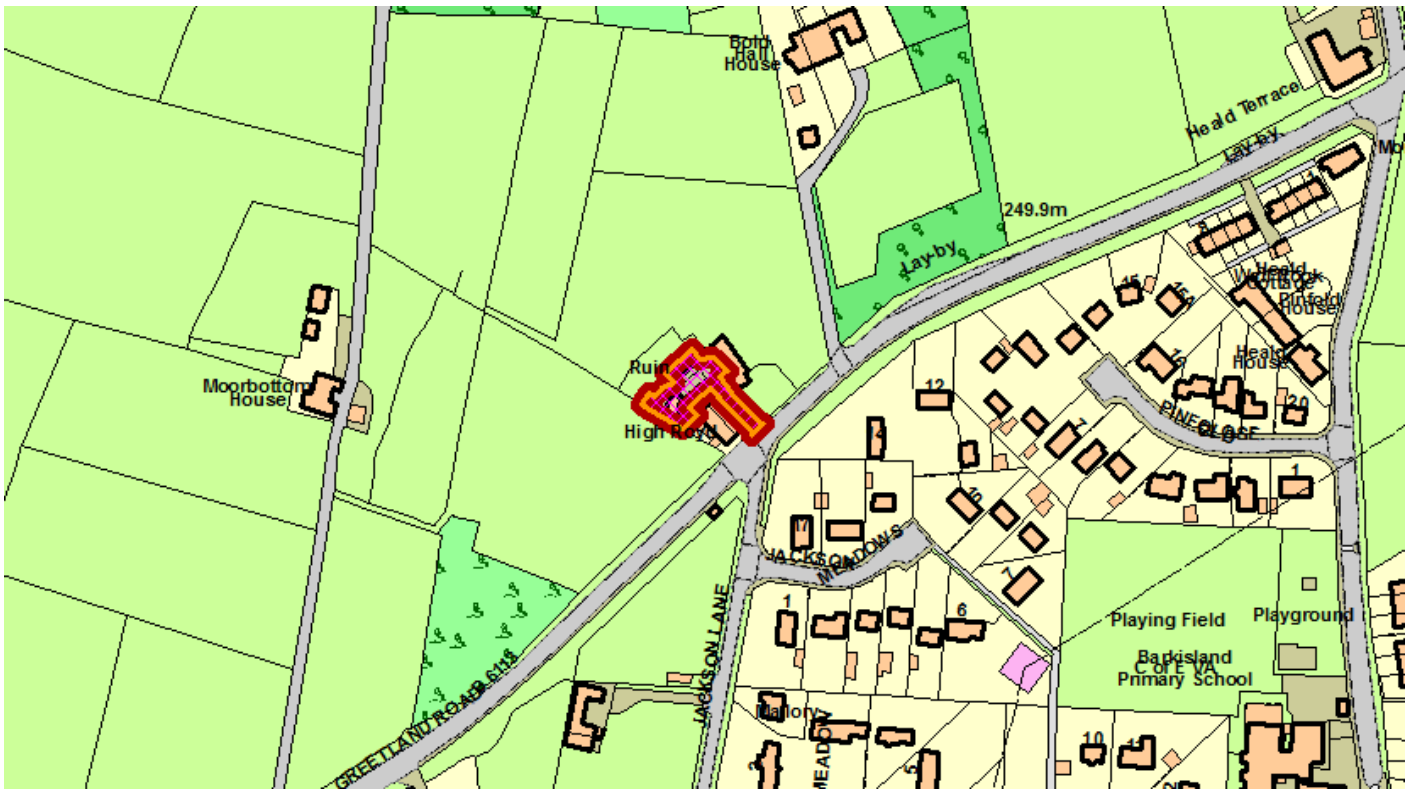
18. For the avoidance of doubt and in the interests of the aural amenity of occupiers of the dwellings and to ensure compliance with Policy EP8 of the Replacement Calderdale Unitary Development Plan.

Time Not Before: 1400 - 04

Application No: **21/01250/VAR** Ward: **Ryburn**
Area Team: **South Team**

Proposal:
Variation of condition 1 on planning application 18/00016/FUL - Revisions to the approved design and appearance; substitute drawing number S1188-02B for the approved plan

Location:
Highroyd Farm Greetland Road Barkisland Sowerby Bridge Calderdale



Applicant:
J Stoyles

Recommendation: **PERMIT**

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

Consultations:

Ripponden Parish Council
Highways Section

Description of Site and Proposal

The site at Highroyd Farm is located in the area of Barkisland on the north side of Greetland Road in a rural area. It is surrounded to the northwest, southwest, northeast and north by open fields. To the southeast is a residential estate known as Jackson Meadows.

The site is located within the Green belt in a small hamlet of agricultural buildings comprising of a detached converted barn, a farmhouse and attached barn (the barn has been converted and the farmhouse refurbished and in separate ownership), and a former red brick outbuilding in a dilapidated state with no roof and in some areas no walls. It is the red brick outbuilding subject of this planning application.

Permission is sought for the variation of condition 1 of the original planning permission (18/00016/FUL) to enable revisions to the approved design and appearance – substituting drawing number S1188-02C.

Condition 1 states:

> *"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."*

The application has been referred to Planning Committee as it seeks approval of plans for an application previously determined by the Planning Committee.

Relevant Planning History

An application for formation of new agricultural access was permitted under delegated powers on 15th December 2020 (application number 20/01242/FUL)

An application for a single storey rear extension, roof lights to front elevation and rear dormer extension (LDC) was granted a section 192 certificate under delegated powers on 6th November 2019 (application number 19/00972/192).

An application for conversion of barn to dwelling (revised scheme to 18/00016/FUL) was permitted under delegated powers on 5th December 2019 (application number 19/00938/FUL)

An application for the conversion of existing barn and outbuildings to form two dwellings and refurbishment of existing farmhouse was permitted at planning committee on 22nd October 2018 (application number 18/00016/FUL).

An application for conversion of agricultural building (amended plans) to the east of the site was permitted under delegated powers on 21st April 20018 (application number 08/00367/FUL). See also application 02/02011/CON below.

An application for conversion of agricultural building to dwelling (Amended Details) was refused under delegated powers on 12th February 2008 (application number 07/02479/CON). The reasons for refusal related to Green Belt in that the proposed garage extension, new access and extensive parking and turning area would make the site more prominent in the landscape and detrimentally affect the openness and visual amenity of the greenbelt) nor have there been any very special circumstances established which justify an exception being made. The proposal would therefore cause demonstrable harm to the Green Belt and is contrary to the above policies. Furthermore, the proposal failed to respect or enhance the character of the existing building by the inclusion of alien

and urban design features which would adversely affect the visual character and appearance of the Special Landscape Area and the Green Belt.

An application for conversion of barn to dwelling, demolition of outbuilding to form dwelling and alteration to dwelling was refused under delegated powers on 28th October 2005 (application number 05/01800/CON) because it involved the construction of a new dwelling in the Green Belt which was inappropriate development. The application was then dismissed on appeal. The Inspector concluded:

> *"It would be a higher and more dominant feature in the landscape than the various farm buildings it would replace and in my view would result in a more built up appearance to the farm complex and intrude into open character of the area.*
>
> *The traditional stone-built barn adjoining the farmhouse is an integral part of this building block and it appears to me that its re-use for residential purposes either as an extension to the accommodation in the farmhouse or as a small dwelling would in principle be supported by UDP Policy N13. However, the proposed extension of the curtilage of the site to provide a new access and double garage would be a significant extension of development into the adjoining field."*

An application for a proposed new dwelling, conversion of barn to form dwelling and alterations to existing dwelling was withdrawn under on 25th August 2008 (application number 05/00677/FUL).

An application for the conversion of agricultural building to the east of the site to form dwelling was refused under delegated powers on 18th September 2003 (application number 02/02011/CON) on Green Belt grounds because it involved major reconstruction of the existing building which would be tantamount to a new building. The application was subsequently allowed on appeal.

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation	Green Belt Special Landscape Area
Replacement Calderdale Unitary Development Plan policies	**GNE1** Containment of the Urban Area **H9** Non-Allocated Housing Sites **BE1** General Design Criteria **BE2** Privacy, Daylighting and Amenity Space **BE5** The Design and Layout of Highways and Accesses **T18** Maximum Parking Allowances **NE3** Extension and Alteration to Other Buildings in the Green Belt. **NE4** Conversion or Change of use of Buildings in the Green Belt. **EP10** Development of Sites with Potential Contamination **EP13** Development involving non-mains drainage. **EP14** Protection of Ground Water **EP20** Protection from Flood Risk **EP22** Sustainable Drainage Systems **NE12** Special Landscape Areas
National Planning Policy Framework Paragraphs	**2. Achieving sustainable development** **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	**Classified Road B6113**
Other materials planning considerations	**Climate Emergency Declaration (Jan 2019** **Emerging Local Plan** **National Design Guide (2021)**

Publicity/ Representations:

The application was publicised with nine neighbour notification letters.

No letters of representation were received.

Parish/Town Council Comments

The development is located within Ripponden Parished Council.

> *"Approved with the condition that the colour of the render is not white but is with keeping with the local architectural vernacular."*

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 principle of development was accepted by the original planning permission 18/00016/FUL. Contrary to officer's recommendation, Members of the Planning Committee considered that the development was a conversion, and it was therefore appropriate development in the Green Belt (the re-use of buildings provided that the buildings are of permanent and substantial construction).

Paragraph 150(d) of the NPPF establishes that the re-use of buildings is not inappropriate provided that the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. It is considered that the proposed changes would not conflict with the previous determination by Members that the proposal is the re-use of a building, the openness of the Green Belt would be preserved and there is no conflict with the purposes.

As it was previously considered that there is a building, it is considered that the proposed changes are effectively an extension to the roof.

At 149(c) of the NPPF, it establishes that the extension of buildings is also not inappropriate provided that the extensions are not disproportionate to the original building.

It is considered that the addition of low-lying pitched roofs would not result in a disproportionate impact both in visual and spatial terms. As such the principle of development remains acceptable.

<u>Layout, Design and Materials</u>

Policy BE1 of the Replacement RCUDP 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 of the NPF paragraph 126 states:

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

The original application has three elements to it, conversion of barn to dwelling and refurbishment of farmhouse and the conversion of the red brick outbuilding into a dwelling.

This current application seeks some design amendments to the red brick outbuilding, which formed part of the previously approved scheme.

Internally some rooms have been reconfigured to provide five bedrooms instead of the original four bedrooms.

The main amendments comprise of the following:-

- alterations to the fenestration predominately on the northwest elevation;
- addition of three rooflights;
- addition of pitched roofs to sections of the building;
- use of render on sections of the building.

The southeast and northeast elevations propose the render, which were originally indicated as being brick. They are visible from Greetland Road, albeit with existing buildings providing some element of screening.

The buildings in front (converted barn and farmhouse) are constructed from stone, whereas the application building was red brick. As such there is an existing difference in building materials within the group. Also, development was permitted for the conversion and extension of a barn immediately to the east (20/00270/FUL) and this scheme includes large elements of glazing on the north elevation and elements of vertical grey boarding to the south, east and west elevations.

The proposed render is indicated as being a dark grey colour on the plan, which would give the scheme a more modern appearance than the previously approved red brick. It is considered that it would sit comfortably with the existing palette of materials at the site and the conversion to the east and would not appear as an incongruous element.

The additional pitched roofs would change the character of the building to an extent but given the irregular roofscape as previously approved and the relatively low ridge height it is considered that the proposed changes would not result in any harm in respect of the design.

Large, glazed openings are proposed on the northwest and southwest elevation, it is considered that these are in keeping with the overall character of the proposed dwelling.

Given the above and subject to conditions, the proposal would satisfy Replacement Unitary Development Plan Policy BE1 and 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 impact on residential amenity was considered by Planning Committee for the previous application and it was considered to be in accordance with policy. The location of windows has not changed and the proposed amendments would not result in any differing impacts on amenity.

In relation to the barn and red brick outbuildings, the distance of the barn to those outbuildings already exists and the removal of some of the outbuildings will create a distance to the sunroom of 9m from the kitchen/dining room of the barn conversion. The distance required under annex A of the RCUDP is 18m (main to secondary). As such there is a substantial shortfall. However, as there is parking in front of the kitchen and dining room of the barn and with sufficient boundary treatment by way of a 2m high fence along with the front of the sunroom, (which proposes being obscure glazed), the shortfall would be considered acceptable.

The proposal is therefore considered to comply with the Replacement Calderdale Unitary Development Plan policy BE2.

Highway Considerations

Policy BE5 seeks to secure highways and accesses whose design and layout ensures 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 parking arrangements have not changed since the previous application.

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

> "This application is unlikely to have any detrimental effect upon the highway, or vehicle and pedestrian movement within the development and as such there are no objections to this application as submitted."

The proposal is therefore considered to comply with Policies BE5 and BE18 of Replacement Unitary Development Plan.

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. As such, a condition was previously included 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 if approved.

Flooding and Drainage

Policy EP14 establishes ground and surface water will be protected. Development will not be permitted if the drainage from it poses an unacceptable risk to the quality or use of surface or ground water resources.

Policy EP20 is concerned with increased risk of flooding due to surface water run off or obstruction.

Policy EP22 establishes where possible and appropriate, development proposals shall incorporate Sustainable Drainage Systems, where this is not appropriate and possible, and acceptable alternative must be incorporated.

With regards to drainage the applicant proposes to connect to a septic tank although no details have been submitted a condition will required details to be submitted prior to installation.

Subject to a condition the proposal would be acceptable in terms of RCUDP policies EP14, EP20 and EP22.

Ground conditions

Policy EP10 Development of sites with potential contamination – establishes that development will be permitted on sites where there is a minor contamination or a slight possibility of contamination. Any planning permission will be conditional to ensure the applicant carries out a site contamination survey and prepares and supplies to the Council, a report outlining the results of the survey and identifying any remediation measures that are required; and approved remediation measures are completed prior to the commencement of any development.

Paragraph 178 of the NPPF seeks to ensure the site is suitable for its proposed use taking into account ground conditions and any risk arising from land stability and contamination.

A contamination survey was submitted with the original application which states there was no evidence of any contamination either in or around the site was found and that there is no risk of pollutant leakages within the site.

The proposal would be acceptable in terms of RCUDP policy EP10 and the NPPF.

Other Matters

The Planning Practice Guidance establishes that the effect of granting an application under Section 73 (variation of condition) of the Town and Country Planning Act 1990 is the issue of a new planning permission. As such it is necessary to repeat the relevant conditions from the original planning permission, except where they are amended or removed by this application or have been discharged.

Section 73 cannot be used to vary the time limit for implementation and therefore this condition must remain unchanged from the original permission.

CONCLUSION

The proposal is considered to be acceptable subject to conditions specified. 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: 25th November 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

Or

Claire Dunn (Lead Officer) on 01422 392155

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 any external walling operations for either of the dwellings takes place details of the materials to be used shall be first submitted to the Local Planning Authority which shall be of matching stone to the existing barn for the barn conversion and matching red brick to the existing walls of outbuildings one and two for the dwelling marked as outbuildings one and two. The development thereafter shall be constructed in accordance with the approved materials before the first occupation of any of the dwellings and retained thereafter.

3. Before any roofing operations of either of the dwellings takes place details of the materials to be used shall be first submitted to the Local Planning Authority. The development thereafter shall be constructed in accordance with the approved roofing materials before the first occupation of any of the dwellings and retained thereafter.

4. Before any windows or doors are inserted the details of the design, materials and colour shall submitted to the Local Planning Authority. The windows and doors shall thereafter be constructed in accordance with the approved details before the first occupation of any of the dwellings and retained thereafter.

5. Prior to occupation of any of the dwellings a scheme for hard surfacing of the first 6 metres of the site access from the adopted highway boundary on Greetland Road shall be submitted to and agreed in writing by the Local Planning Authority. This surfacing shall be either bitumen macadam, hot rolled asphalt or an equivalent material. The approved scheme shall thereafter be implemented before the first occupation of any of the dwellings and retained thereafter.

6. The development shall not be occupied until the parking and turning areas shown on the permitted plans have been provided, surfaced, sealed and marked out in accordance with the permitted plans and the parking and turning areas shall thereafter be retained for that purpose for the occupiers of and visitors to the development.

7. Prior to the occupation of the development details of a scheme for the provision of storage and collection of wastes arising from occupation of the development, including recyclable wastes (compatible with the requirements of the Council's waste collection service and in accordance with BS 5906:2005) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall account for the following:
a) suitable location of waste store(s) relative to all dwellings of the development hereby permitted, and
b) the design and construction of each waste store so as to minimise loss of amenity from vermin, odour, flies and animal attack; and to provide sufficient space for receptacles for the separate storage of household waste and recyclable wastes, and
c) waste collection point(s), level accessways between the stores and collection point(s), and unobstructed vehicular access to the waste collection point(s).
Thereafter the scheme shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings.

8. Prior to the first occupation of the development full details of a scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first occupation of any of the dwellings hereby permitted and retained thereafter.

9. In connection with any garage, driveway, vehicle hardstanding or carport 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.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that order) no development falling within class A, B, C, D and E of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the Local Planning Authority.

11. The external rendering of the development shall not begin until details of the colour and texture of the render have been submitted to and approved in writing by the Local Planning Authority. The external facings of the development shall be rendered in accordance with the details so approved prior to the first occupation of the development and shall be so retained thereafter.

Reasons

1. For the avoidance of doubt as to what benefits from planning permission and to ensure compliance with the Development Plan and National Planning Policy Framework.

2. In the interests of visual amenity and to ensure compliance with policy BE1 of the Replacement Calderdale Unitary Development Plan.

3. In the interests of visual amenity and to ensure compliance with policy BE1 of the Replacement Calderdale Unitary Development Plan.

4. In the interests of visual amenity and to ensure compliance with policy BE1 of the Replacement Calderdale Unitary Development Plan.

5. In the interests of highway safety and to ensure compliance with policy BE5 of the Replacement Calderdale Unitary Development Plan.

6. To ensure that adequate off-street parking is available for the development and to ensure compliance with policies BE5 and T18 of the Replacement Calderdale Unitary Development Plan.

7. In the interests of amenity and to ensure compliance with policy EP8 of the Replacement Calderdale Unitary Development Plan.

8. To ensure proper drainage of the site and to ensure compliance with policies EP20 and EP22 of the Replacement Calderdale Unitary Development Plan.

9. In the interests of sustainable transport and to ensure compliance with paragraph 110 of the National Planning Policy Framework.

10. In the interests of visual amenity and to protect the openness of the Green Belt and to ensure compliance with Section 13 of the National Planning Policy Framework.

11. 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.