

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

Date of meeting: 10 January 2023

Chief Officer: Director of Regeneration and Strategy.

1. SUBJECT OF REPORT

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

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

2. INTRODUCTION

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

3. IMPLICATIONS ARISING FROM REPORT

3.1 Planning Policies

These are set out separately in each individual application report.

3.2 Sustainability

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

3.3 Equal Opportunities

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

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

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

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

3.4 Finance

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

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

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

Reference: 6/00/00/CM

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

FOR FURTHER INFORMATION ON THIS REPORT CONTACT:

Richard Seaman
Corporate Lead
For Planning Services

TELEPHONE :- 01422 392241

DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:

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

DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:

www.calderdale.gov.uk.

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

List of Applications at Committee 10 January 2023

Time & No.	App No.	Location	Proposal	Ward	Page No.
14.00	20/01294/FUL	Barn West Of Copperas Row Rochdale Road Greetland Elland Calderdale	Agricultural workers dwelling (part retrospective)	Greetland And Stainland	5 - 17
14.00	22/00577/FUL	Barnsdale House Gate Head Lane Greetland Elland Calderdale	New vehicular access (Revised Scheme to planning application 20/00825/FUL)	Greetland And Stainland	18 - 26

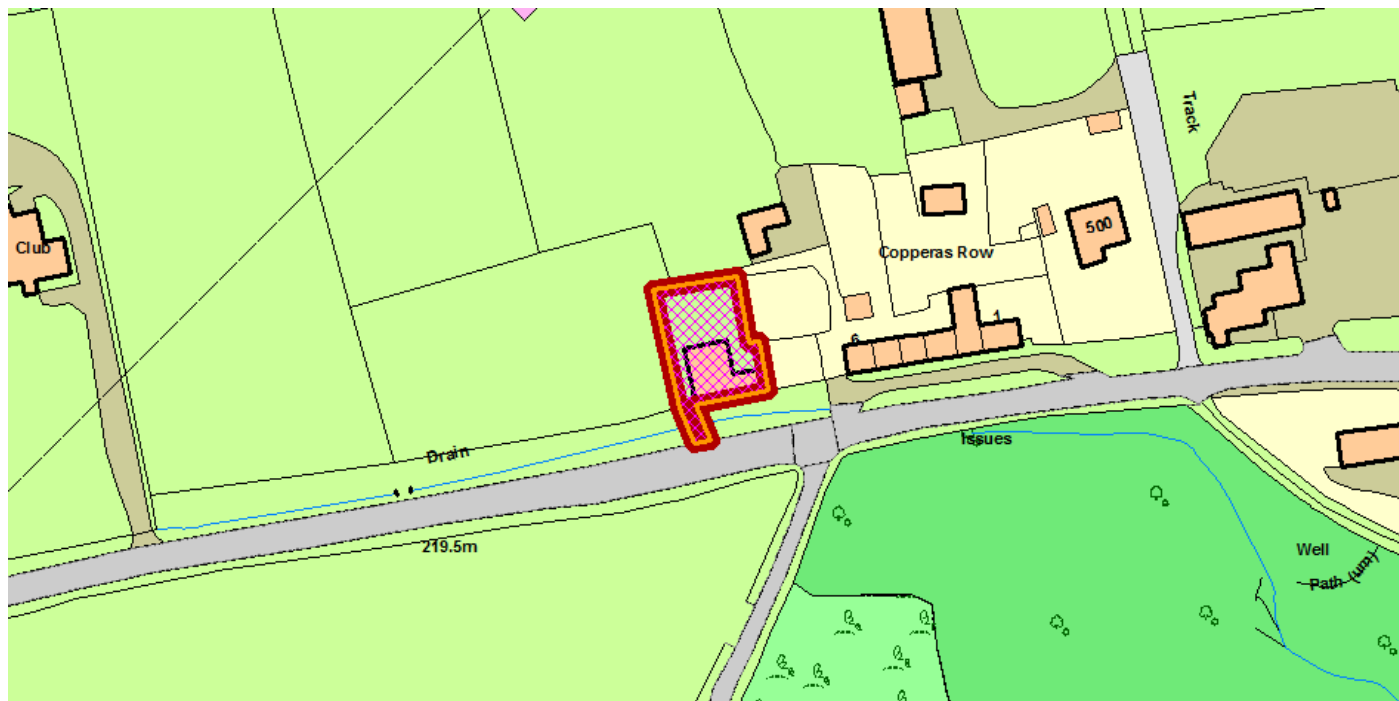
Time Not Before: 14.00 - 01

Application No: **20/01294/FUL**

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

Proposal:
Agricultural workers 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, which was 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.

When the application was originally submitted, it was a retrospective planning application 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 substantially differ to that approved under Class Q as the whole building was demolished and rebuilt.

The application cannot therefore be considered as a conversion and is a new building in the Green Belt for which very special circumstances are required.

The application was first 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.”

Further information was submitted since the committee meeting and the applicant now seeks planning permission for an agricultural workers dwelling (part retrospective).

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 required.

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 Development Plan Designation	Calderdale Unitary	Green Belt Special Landscape Area
Replacement Development Plan policies	Calderdale Unitary	GNE1 Containment of the Urban Area 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 EP8 Other Incompatible Uses EP13 Development involving non-mains drainage 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 9. Promoting sustainable transport 12 – Achieving well-designed places 13 – Protecting Green Belt Land 14. Meeting the challenge of Climate change, flooding and coastal change 15. Conserving and enhancing the natural environment
Other Constraints		Bat alert area
Other Material Planning Considerations		Climate Emergency Declaration (Jan 2019) Emerging Local Plan

Publicity/ Representations:

The application was publicised with five neighbour notification letters.

No letters of objection were received.

Parish/Town Council Comments

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

Ward Councillor Comments

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

“NPPF Page 35 – making effective use of land – item 120c – Planning Policies and decision should give substantial weight to the value of using suitable brownfield land 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.”

Councillor Sue Holdsworth:

I support this application for the following reasons:

The proposed footprint does not exceed the existing footprint of the former barn and cowshed.

The current state of the building is an eyesore, and under RCDUP page 189, Policy numbers NE3 and NE4 turning an old, disused building into a house generates a windfall property in line with the Local Plan.

The owners have agreed to install roost for bats and perches for sparrows as required.

They are long-term residents of Greetland and farm the land surrounding the proposed barn conversion, so are unlikely to wish to disturb wildlife or fauna.

The owners are currently living in a caravan, which is far from ideal

There have been no objections to the conversion from local residents, nor from Highways regarding access.

I feel strongly that this application be allowed to proceed as quickly as possible.

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 Framework indicates that development should be restricted in the Green Belt if there is a clear reason for refusal and if so the presumption in favour of development does not apply.

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

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

Paragraph 149 of the NPPF establishes that the Local Planning Authority should regard the construction of new buildings as inappropriate development in Green Belt. The proposal for a new dwelling does not fall within the list of exceptions within para 149 and thus is considered inappropriate development in the Green Belt.

In relation to inappropriate development, the NPPF states that:

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

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

RCUDP policy GNE1 states *“The plan will seek to restrain development outside the urban areas through the general extent of the Green Belt”*. However, RCUDP policy NE1, which was the specific Part Two Policy relating to development within the Green Belt, was not saved when the RCUDP was amended by Direction of the Secretary of State on 25 August 2009.

Although the proposal is for a new dwelling which is not in the list of exceptions identified in the NPPF, it is intended as essential accommodation for agricultural workers in association with the existing agricultural use of the surrounding land and buildings. 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.

In terms of siting, the proposal’s location is in the corner of a field some 1 half miles from the main farm buildings and was built on the footprint of the previous agricultural building. It is located to the west of Copperas row a terrace of 6 dwellings. The field currently occupies a caravan which the applicant is currently living in and associated outbuildings.

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.

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.

The proposal now relates to a new agricultural workers dwelling, which is not in the list of exceptions identified in the NPPF, the additional information submitted seeks the need for 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 are 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:

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 (sic) 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, Officers consider 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.

Other Suitable accommodation in the area

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.

The proposed agricultural workers’ dwelling 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 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 proposed development site is designated as Green Belt and as such an assessment has to be made as to whether the development is appropriate development and whether it would impact on the

openness of the Green Belt. As a new dwelling is proposed, Very Special Circumstances have to be submitted to support the application for an agricultural workers dwelling. Considering the lack of need due to the Bank Top Farm being approximately 1.5 miles from the application site, and the fact that there are other nearby buildings available to be either converted or bought that are nearer to the agricultural farm (Bank Top Farm), it is considered that a case for Very Special circumstances has not been demonstrated on this occasion.

It is therefore concluded that the development is inappropriate development in the Green Belt and paragraph 147 and 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. 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 agricultural workers 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 considerations to indicate that an exception should be made in this case.

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

Date: **13th December 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

Lauren Clarkson (Lead Officer) on 01422 392216

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: 14.00 - 02

Application No: **22/00577/FUL**

Ward: **Greetland And Stainland**

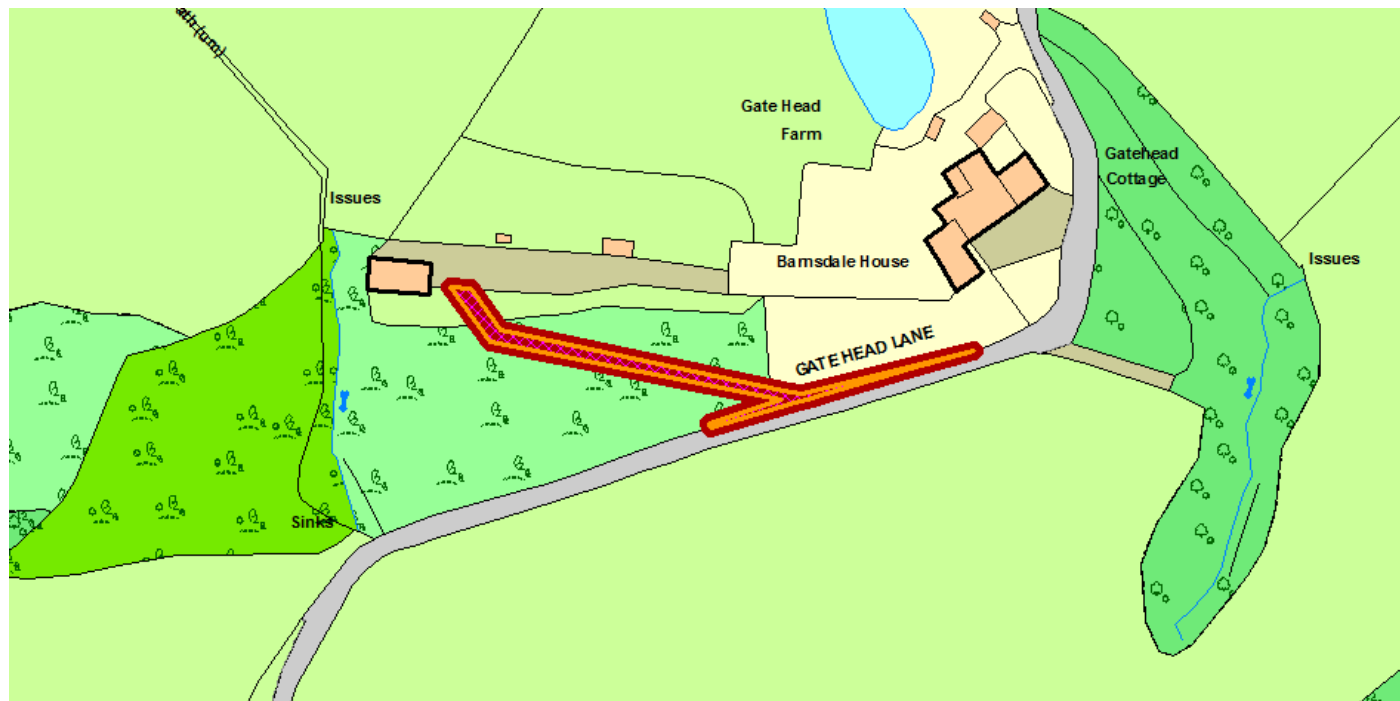
Area Team: **South Team**

Proposal:

New vehicular access (Revised Scheme to planning application 20/00825/FUL)

Location:

**Barnsdale House Gate Head Lane Greetland Elland Calderdale
HX4 8NP**



Applicant:

Mr F Reynolds

Recommendation: **REFUSE**

Parish Council Representations:

N/A

Representations:

No

Departure from Development Plan:

No

Consultations:

Highways Section

Highways Section

Description of Site and Proposal

The site is detached dwelling (converted into a dwelling by the owners of Barnsdale House). It is located to the west of Barnsdale House and at a distance of over 117m. Access to the site is currently via the same access arrangement for Barnsdale House through a gated access next to the existing garage that serves that dwelling and down a long driveway to the new dwelling (known as The Stables). The purpose of this application is to create a new vehicular access to The Stables to separate the existing access arrangements both properties currently use.

The proposal seeks planning permission for the new vehicular access (revised scheme to planning application 20/00825/FUL).

The application has been referred to Planning Committee at the request of Councillor Sue Holdsworth.

Relevant Planning History

An application for the conversion of redundant barn to dwelling and erection of detached garage was permitted under delegated powers on 18th October 1999 (application number 99/00236/CON).

An application for a conservatory was refused under delegated powers on 27th August 2003 (application number 03/01209/HSE).

An application for stables, hay and implement store was permitted under delegated powers on 11th March 2004 (application number 03/01210/FUL). This building has since been converted into a dwelling (see 18/00423).

An application to extend existing outhouse to provide conservatory – south east elevation was permitted under delegated powers on 2nd March 2004 (application number 04/00068/HSE).

An application for the proposed domestic double garage and store (revised location) was withdrawn on 16th December 2004 (application number 04/02393/HSE).

An application for proposed domestic double garage and store (revised location) was permitted under delegated powers on 4th April 2005 (application number 05/00259/HSE).

An application for a stable block (retrospective) was refused under delegated powers on 26th August 2005 (application number 05/01264/FUL).

An application for conversion and extension of outbuilding to form one dwelling was permitted under delegated powers on 6th August 2018 (application number 18/00423/FUL). This outbuilding was original built as stables (please see 03/01210/FUL and 05/01264/FUL above).

An application for new vehicular access was refused under delegated powers on 3rd June 2021 (application number 20/00825/FUL). It was refused on harm to the Green Belt and on highway issues.

An application for variation one on application 18/00423 – amended plan which includes additional side extension is currently pending consideration (22/00413/VAR).

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation	Green Belt Wildlife Corridor
Replacement Calderdale Unitary Development Plan policies	GNE1 Containment of the Urban Area BE1 General Design Criteria BE2 Privacy, Daylighting and Amenity Space BE5 The Design and Layout of Highways and Accesses T18 Maximum Parking Allowances NE16 Protection of Protected Species NE17 Biodiversity Enhancements EP14 Protection of Ground Water EP20 Protection from Flood Risk EP22 Sustainable Drainage Systems
National Planning Policy Framework	12. Achieving Well Designed Places. 13. Protecting Green Belt Land 15. Conserving and enhancing the natural environment
Other constraints	
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.

Nine letters of representation have been received.

Summary of Points Raised:

Objections

- The plan for the road is dangerous
- Surface rain water will run-off onto Gate Head Lane
- It will cause erosion of the existing Lane
- The new access road is steep and if it becomes icy the consequences are plain
- New highway hazard will cause collision which may result it a car being knocked off the existing lane and down the hillside.
- It will utilise Green Belt land and will be clearly visible on the landscape
- I cannot see the need for yet a further access for cars and pick-ups at the site in question.
- There is existing safe access across the top of the hill and the applicant has vehicular access to his property already.
- An additional access is unnecessary and will be dangerous, create blind spots on a busy bridle way used daily by horse riders.

- The gradient road is very steep and creates safety concerns especially with loaded commercial traffic/transit pick ups using it daily as part of the applicant's business.
- These concerns will be multiplied in winter months when surfaces become icy.
- Damage wildlife and openness of Green Belt
- Concerns for types of vehicles using the access.
- The Lane is narrow and cannot support anything wider than a refuse or recycling size vehicle.
- I would like a size restriction to the access.

Summary of Points Raised:

Support

- This additional access is positive for the lane and provides all the residents/visitors and horse riders additional passing point with clear vision of the lane.
- It won't add any more volume to the lane.
- Additional passing place has been requested for many years

Parish/Town Council Comments

The development is not located within a Parished area.

Ward Councillor comments:

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

"I am aware that the new drive would be on Green Belt, but the detriment to the Green Belt would be small in comparison to the present road safety risks, and Mr & Mrs Reynolds intention is to plant more trees to replace some rough shrubs and weeds along the new proposed driveway."

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.

The Framework indicates that development should be restricted in the Green Belt if there is a clear reason for refusal and as such the presumption in favour of sustainable development does not apply.

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

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

In relation to inappropriate development, the NPPF states that:

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

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

The proposed development is for a new vehicular access to serve a recently converted building into a dwelling.

Paragraph 150 of the NPPF establishes that certain forms of development, which includes engineering operations and material changes in the use of land, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

Details of the access and drive’s construction have been provided which shows the significant engineering operations which are required to enable access through a steep banking. The proposal would involve extensive excavation works to create the access which would encroach into open countryside. It encroaches into the banking by approximately 95m as measured from Gatehead Lane up a steep gradient (1:8.18) to the dwelling (The Stables). The physical alterations are not considered small or minor and would involve a new 95m by 4m wide concrete driveway, electric gates (as the entrance cannot be seen from the house) and with gabion baskets providing structural support, all of which would occur/extend out into an unspoilt open field/steep banking. It would also involve a change of use of the land to residential.

Paragraph 137 states “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.”

Whilst the NPPF does not include a definition of openness, case law has established that any construction harms openness irrespective of whether it is obtrusive or its impacts in terms of its aesthetic attractions or qualities (Timmins v. Gedling Borough Council [2014] EWHC 654 (Admin)).

The land is currently steep banking and the provision of an access with associated 95m length of reinforced concrete and part permeable tarmac Driveway and gabion baskets for structural support, would appear as a construction distinct from the existing environment, where no such development

exists. It would have an urbanising effect, and it is considered that it would harm the openness of the Green Belt.

In addition to the spatial effects of the openness of the Green Belt, it is considered that the proposal would have visual impact. Currently there is a distinct boundary between existing buildings and the surrounding land, which in the immediate area consists of enclosed fields and enclosed gardens of dwellings. The area in which the access would be sited is a steep banking leading down to a narrow road. The proposed access would serve to carve up the banking, and introduce an urban quality that would be disparate from the existing appearance and quality of the landscape. There are trees along the access route proposed which would partially screen views of the access, but given its steep banking location would still be visible. The surfacing material would give the access far ranging views especially from across the valley and for users of the existing road, nonetheless it is considered that the proposal would result in a visual impact substantially detrimental on the openness of the Green Belt.

As shown above, Paragraph 138 of the NPPF establishes the 5 purposes of the Green Belt, which includes “to assist in safeguarding the countryside from encroachment”. It is considered that the site is within the countryside and, as discussed above, it would appear as an encroachment. As such, it is considered that the development would conflict with the purposes of Green Belt and cause harm both in terms of inappropriateness and harmful impact on openness.

It is considered that the proposal is inappropriate development, and as such if planning permission is to be granted there must be very special circumstances that clearly outweigh the harm by virtue of inappropriateness and any other harm, such as impact on openness.

The reasoning behind the application is that the applicant has moved from Barnsdale House into the recently converted property The Stables and wants to create a new separate access for the new dwelling. This is not considered to be very special circumstances and therefore the benefits of the proposed access would not outweigh the harm to the Green Belt by reason of inappropriateness and harm to the openness.

As such, the proposal is not considered to comply with section 13 of the National Planning Policy Framework.

Materials, Layout and 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 proposal is to create a long 95m access from The Stables onto Gate Head Lane.

The proposal would involve extensive works to this large section of the field/steep banking (a new 95m x 4m concrete access track), and would fail to respect or enhance the established character and appearance of the open character of the field/steep banking and its surroundings because of its siting/layout, scale, design and materials for the vehicular access drive.

The proposal would intrude on key views or vistas by creating a large impact on the open countryside.

It is noted that the proposal involves planting new trees along the boundary of the access to help screen the proposal, along with planting in the gabion baskets to blend the gabion baskets into the landscape. However, it is not considered that this would mitigate the impact of a proposed access road and would not respect the established character of the area.

As such, the proposal is considered not to comply with Policy BE1 or 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 site relates to a field/steep banking and as the neighbouring properties are some distance away it would not impact on the immediate privacy or amenity of those dwellings.

Given the above, the proposal would satisfy RCUDP policy BE2 Annex A.

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 proposal involves the creation of a substantial access road to a converted dwelling.

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

*“The proposed plan is identical to that submitted for application 20/00825/FUL.
The comments previously made on that application are still applicable.
These are contained below.*

The visibility would be substandard and the acute angle make it difficult for emerging vehicles to see vehicles approaching from the south. The visibility should be measured at 2.4m back not the indicated 2m given the bridleway status of the lane and housing to the south (both existing and consented) by Gate Head Mill.

The gradient should not exceed 1 in 8.

The gradient calculation includes a 12m length at the top of the access where there is only an 0.3m level difference. The maximum gradient requirement applies to the full access road length rather than the average. For example the level difference between the 110.54 and 113.45 spot heights at the lower end is 20.4m which gives a gradient of 1 in 7

The hard surfaced access road would result in water running off onto the lane.

For these reasons the proposal is considered to be contrary to the NPPF - paragraphs 108b and 109 - and policy BE5 of the RCUDP. Therefore the highway objection remains.

The acute angle is not ideal as it would reduce visibility to the right for departing vehicles.

There are no visibility splays indicated on the drawing. It appears that a length of high hedge would need to be removed to achieve visibility to the left. The submitted sketch is not on a surveyed base so the position and height of the boundaries are not shown.

The surface of the access road is not stated on the drawing. There is reference to a concrete surface on the application form but it is not clear if this is just for the vehicle hardstanding. A loose surface on the approach to the lane would create hazards to road users, although this could be controlled by condition.

The gradient of the access road would be 1 in 5 for much of its length which is too steep. The gradient should not exceed 1 in 8.

There are no drainage details submitted. Run off from the drive would be channelled onto Gate Head Lane.

The access would result in vehicles having to travel over a greater distance of single lane road.

The proposals represent a significant worsening of the existing vehicular access and are considered contrary to policy BE5 of the UDP and therefore cannot be supported.”

A further plan was submitted and The Assistant Director – Strategic Infrastructure (Highways) were again consulted and made the following comments:-

“A drawing has been provided on a surveyed base that indicates an access with an acceptable gradient.

In terms of visibility, there are no long sections showing the splay in the vertical alignment and any reduction in wall height, if required. However as the wall is within the blue line ownership it is assumed that then that could be controlled by a planning condition.

The drainage concerns have not been addressed. The hard surfaced access road would result in water running off onto the Lane.

As with previous submissions, the approach to Gatehead Lane is at a very acute angle. This would make it difficult for emerging drivers to see vehicles and other road users approaching from the south.

The highway authority objection therefore remains.”

The formation of the proposed access onto Gatehead Road is considered unacceptable on highway safety grounds, particularly due to the acute angle and substandard visibility, and the drainage issues caused through water running off onto the Lane. as such it would be contrary to RCUDP policy BE5 of the RCUDP and paragraphs 108b and 109 of the NPPF.

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 the policies GNE1 (containment of the Urban Area), BE1 (General Design Criteria) and BE5 (Design and Layout of Highways and Accesses) of the Replacement Calderdale Unitary Development Plan and section 13 (Protecting Green Belt Land) and paragraphs 108b and 109 of the National Planning Policy Framework, nor have there been any material considerations to indicate that an exception should be made in this case.

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

Date: 8th December 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

Lauren Clarkson (Lead Officer) on 01422 392216

Reasons

1. The site lies within the approved Green Belt in the adopted Replacement Calderdale Unitary Development Plan wherein there is a presumption against development for purposes other than those categories specified in paragraph 150 of Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework (such as engineering operations or a material change in the use of land provided the openness of the Green Belt is preserved and the development does not conflict with the purposes of including land within it), in order to assist in safeguarding the countryside from encroachment, and to retain the openness of the Green Belt. The proposal falls outside these specified categories in that the proposed development would harm the openness of the Green Belt and it would result in encroachment into the countryside thus it would conflict with the purposes of the Green Belt. Very special circumstances have not been established that would clearly outweigh the harm by reason of inappropriateness and harm to the openness of the Green Belt. The proposal would therefore cause demonstrable harm to the Green Belt and is contrary to Section 13 (Protecting Green Belt Land) of the National Planning Policy Framework and to policy GNE1 of the Replacement Calderdale Unitary Development Plan.
 2. The formation of the proposed access onto Gatehead Road is considered unacceptable on highway safety grounds, particularly due to the acute angle and substandard visibility, and water running off onto the Lane, as such it would be contrary to Policy BE5 (The Design and Layout of Highways and Accesses) of the Replacement Calderdale Unitary Development Plan and paragraphs 108b and 109 of the National Planning Policy Framework.
 3. The proposed development would harm the visual amenity of the area because it would not respect or enhance the established character and appearance of the open character of the field/steep banking and its surroundings in terms of scale, siting/layout, design, and materials, as such it would be contrary to policy BE1 of the Replacement Calderdale Unitary Development Plan.
-