

Delegated report on application 19/00483/OUT

Description of Site and Proposal

The site is located in a quarry to the north of Burnley Road, Sowerby Bridge.

The area subject to the outline application is the southern part of the quarry, which houses the stone sheds and the parking area.

To the north of the site is the existing quarry face, to the east is a mix of industrial premises and terraced dwellings, to the south is Burnley Road and further dwellings, whilst to the west of the site are fields.

Outline planning permission is sought for a Residential Development of 25 dwellings.

The application is accompanied by the following supporting documents:

- Air Quality Assessment
- Noise Report
- Transport Statement
- Contamination Report
- Ecological Impact Assessment
- Surface Water Drainage Form

Relevant Planning History

An application for determination of conditions for mineral site / mining site Environment Act 1995 (S96 and par.9 of Sch.13) TP.178 for surface mineral workings was permitted under delegated powers on 14 July 2000 (application number 97/01652/MCO)

Key Policy Context:

Replacement Calderdale Unitary Development Plan Designation	Primary Housing Area Green Belt
Replacement Calderdale Unitary Development Plan Allocation	Mineral Working Site
Replacement Calderdale Unitary Development Plan policies	H2 Primary Housing Area H9 Non Allocated Sites BE1 General Design Criteria BE2 Privacy, Daylighting and Amenity Space BE3 Landscaping BE4 Safety and Security BE5 The Design and Layout of Highways and Accesses NE16 Protection of Protected Species NE17 Biodiversity Enhancement

	NE21 Trees and Development Sites T18 Maximum Parking Allowances EP8 Other Incompatible Uses EP9 Development of Contaminated Sites EP14 Protection of Groundwater EP20 Protection From Flood Risk EP22 Sustainable Drainage Systems M1 Criteria for Assessing All Mineral Working Proposals
National Planning Policy Framework Paragraphs	5 Delivering a sufficient supply of homes 6 Building a strong competitive economy 8 Promoting healthy and safe communities 9 Promoting sustainable transport 11 Making effective use of land 12 Achieving well-designed places 14 Meeting the challenge of climate change, flooding and coastal change 15 Conserving and enhancing the natural environment 17 Facilitating the sustainable use of minerals
Other relevant planning constraints	Contaminated land Bat Alert Area

Publicity/ Representations:

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

One representation was received.

Summary of points raised:

Neutral

- New dwellings will be considerably higher than our property
- Impact of natural light into our property and loss of privacy
- Hopes that next phase of development restricts the dwellings to two storeys
- Rear gardens should about Burnley Road
- At times of heavy rainfall drainage on Burnley Road is insufficient
- Wish to ensure loss of natural drainage does not increase risk of flooding

Parish/Town Council Comments

The development is not located within a parished area

Assessment of Proposal

Principle of Development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) compliments this requirement. The revised NPPF was updated on 19 February 2019 and sets out the Government's planning policies for England and how these are expected to be applied, alongside other national planning policies. Paragraph 213 of Annex 1 (Implementation) of the NPPF advises to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the NPPF policies, the greater the weight they may be given.

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

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; [*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 site lies within a working quarry, known as Marsh Quarry. The proposal seeks outline permission for 25 dwellings, with all matters reserved.

The Minerals Officer was consulted on the proposal and provided the following comments:

The planning application seeks outline planning permission for 25 residential units on the southern portion of Marsh Quarry which is designated in the RCUDP as Mineral Working Site (Policy M4) and Primary Housing. The site forms part of a wider site granted consent planning permission 97/01652/MCO for the winning and working of minerals and the deposit of mineral waste at Marsh Quarry until 21 February 2042 with restoration to agricultural use.

Currently the site shown on drawing no 245/01 provided by the applicant is ancillary to the extraction activities at the site, providing access, parking turning , siting of welfare facilities and storage of as raised mineral and soil/subsoil for use in restoration.

I understand from the current operators that mineral deposits would be exhausted at the current rate of extraction, subject to market requirements in approximately 2 ½ years with a similar timeframe for restoration to the approved landform (Subject to EA permitting).

However, the site has a history of stop start workings therefore it is difficult to calculate an exact timescale.

I would not wish to see the remaining available mineral resource sterilised by non-mineral development. Paragraph 204 of the NPPF provides advice on safeguarding mineral resources and encourages the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place

The application under consideration provides no details as to how the timing of the operations on the site would be managed. This is a very tight site, I would not envisage that housing development and restoration could be undertaken simultaneously therefore the above application would appear premature.

The application also does not show how the remaining site would be accessed for agriculture.

I consider that the application is premature furthermore in Planning Policy terms as Condition 3 of planning permission 97/01652 requires the land to be restore to agricultural use, the site has the same planning status as greenfield land with a presumption against development.

Following these comments, the applicant provided some additional information in relation to timelines and the quarrying business.

In relation to the existing quarry operation, the applicant has stated that extraction is expected to be complete within 2 years. The detailed layout has not yet been established, however the applicant is aware that access will need to be provided through the application site to the wider quarry site. It is noted that the applicant is investigating the most appropriate use for the remainder of the quarry site; in particular what types of agriculture would be most appropriate.

The applicant also maintains that there is no intention for the housing site to be developed before the quarrying and restoration has been completed. The Minerals Officer considered the applicant's response to their original comments and given the impacts in relation to amenity for future residents, and on the other hand the potential for a residential development to result in complaints against the established quarrying business, they recommended a Grampian style condition be attached to the decision notice. This would have the effect of ensuring all quarrying activities ceased prior to development of the residential development and requiring that the restoration of the quarry was achieved to the satisfaction of the Mineral Planning Authority, to ensure the minerals element of the site was completed in accordance with policy M1 of the RCUDP.

Part of the site is also within the Primary Housing Area designation of the RCUDP. Policy H2 states that *"Primary Housing Areas are defined in the main settlements of Calderdale as shown on the Proposals Map. Within these areas proposals for new housing on previously developed land will be permitted, along with changes of use to housing and the improvement and extension of existing housing provided no unacceptable environmental, amenity, traffic or other problems are created and the quality of the housing area is not harmed, and wherever possible, is enhanced. Proposals for new housing on vacant land*

not previously developed and for other uses in Primary Housing Areas will be assessed against the relevant UDP policies.”

The nature of the proposal is such that it qualifies as a major development, in that it is proposing 10 dwellings or more. Paragraph 64 of the NPPF is as follows:

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

- a) provides solely for Build to Rent homes;*
- b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);*
- c) is proposed to be developed by people who wish to build or commission their own homes; or*
- d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.*

The council's Housing Services Manager was consulted on the proposal and commented as follows:

Affordable housing is a key priority for Calderdale Council. The Council is currently in the process of adopting its 15 year Local Plan, the plan has identified a need of 840 new residential homes per annum in Calderdale. The Strategic Housing Market Assessment (SHMA) 2018 identifies a need for 193 affordable homes per annum..

This site is in Zone C, the threshold is 15+ homes and therefore the Council would be seeking 25% on-site contribution from the development for affordable homes under the Council's Local Plan policy, out of the proposed 25 homes around 6 homes would need to be affordable.

No information has been provided by the applicant about the type of homes being proposed or how the affordable housing policy will be met. More detail is required on how these homes would be provided for affordable rent, with a presumption that a Registered Provider (Housing Association) lets the properties for affordable rent. Please see our new Affordable Housing Supporting Guidance for further information <https://www.calderdale.gov.uk/v2/sites/default/files/Affordable-Housing-Supporting-Guidance.pdf>

The applicant was made aware of the requirements set out in the Housing Manager's comments, and they proposed a condition is attached to any outline permission which requires the submission of an affordable housing scheme as part of any reserved matters application. Given this is an outline application with all matters reserved at this stage, as

the detailed design of the scheme has been undertaken, it is not known if the affordable housing requirement would be provided on site or by an off-side contribution.

The requirement to maintain a rolling 5-year supply of deliverable land for housing is set out in the National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG). The current position is that Calderdale has 2 years housing supply.

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.

The weight attributed to not having a five year supply should reflect paragraph 11 of the NPPF taking forward the “presumption in favour of sustainable development” and decisions based on whether a proposal is consistent with the policies set out in the NPPF when taken as a whole.

The references in policies H2 and H9 to green field sites are not up-to-date because they are inconsistent with the NPPF (the NPPF encourages the effective use of land by reusing land that has been previously developed; however it does not prohibit the development of green field sites), and the Council does not currently have a five year supply of housing.

The proposed development is acceptable in principle.

Residential Amenity

Comments on the application expressed a concern that due to the differences in height between the site and the existing properties on Burnley Road there could be impacts on the privacy and natural light on existing properties.

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.

EP8 refers to ‘Other incompatible uses’.

In relation to BE2, the application is in outline with all matters reserved and an assessment of the layout in relation to BE2 will be carried out during the assessment of any subsequent reserved matters application.

However given the site size it is considered that 25 dwellings could be accommodated on the site without impacting on privacy of either existing dwellings or proposed dwellings.

As discussed above, the quarrying activity will be controlled by condition in order to ensure the quarrying activity ceases and is restored appropriately prior to any residential development.

The Assistant Director – Neighbourhoods (Environmental Health) – was consulted on the proposal and initially commented as follows:

Noise

A noise report is required to indicate the noise environment in relation to the adjacent businesses at New Works and Quarry House (HX6 2TF). I would suggest an approach using BS4142. The report should also consider the traffic noise impact on the site taking into account the standards set out in BS 8233:2014

Following these initial comments the applicant provided additional information in regards to the objection by the Environmental Health Officer on noise. They stated that the business to the east of the development is permanently closed; and therefore there were no working hours and it was noted that the only noise associated with that business was a small number of car movements in the adjacent yard (which may or may not have been related to the operation of the business. As such, the applicant maintained, it was neither necessary nor possible to undertake the approach recommended by the Environmental Health Officer. The applicant did however carry out a thorough BS8233:2014 assessment at two locations (one of which being at the closest location to Burnley Road to capture worst-case traffic noise impacts), and noise levels were found to be acceptable. The applicant also maintained that whilst it was not possible to quantitatively determine the level of noise generated by this business, there are a number of qualitative factors which demonstrate that the Development is suitable for housing in terms of noise. Firstly, the adjacent business unit faces directly away from the Development, with the only access to the unit being on the opposite side of the building. This means any/all staff movements and deliveries would be fully screened from the Development. Secondly, and as mentioned in the noise report, the unit has no external plant, and no windows/doors/louvres in the rear façade. Thirdly, a number of existing residential dwellings are located on Burnley Road, directly overlooking the business unit (and yard) in question. These properties are a similar distance from the business as the proposed dwellings, and given their location, are likely to be substantially more exposed to any noise from this business than the proposed dwellings.

The Environmental Health officer was reconsulted following the applicants response and considered that the response to their initial concerns with regards to noise was acceptable.

Layout, Design & Materials

RCUDP Policy BE1 calls 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.

This is also reflected in Section 12 of the NPPF, which states that *“the creation of high quality 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 seeks outline planning permission for the residential development of 25 dwellings.

The application is outline with all matters reserved, and therefore materials, layout and design are not under consideration at this time and will be addressed through the reserved matters application. Subject to further consideration at the reserved matters stage, it is considered that the development complies with policies BE1 of the RCUDP.

Highway Considerations

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

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

Paragraph 110 of the NPPF establishes that development should be designed where practical to incorporate facilities for charging plug-in and other ultra low emission vehicles. In accordance with this, a condition is proposed requiring the installation of a suitable facility to permit the recharge of an electrical battery powered vehicle that may be used in connection with that dwelling.

The Assistant Director – Strategic Infrastructure (Highways) was consulted on the proposal and provided the following comments:

There are no highway objections in principle to a residential development in this location. It is noted that the application is outline with all matters remaining reserved including means of access.

The highway authority disagrees with the comments in the Transport Statement. The daily movements at the quarry are likely to have been much lower than the suggested 40-60 2-way daily HGV movements based observations, the size of the current quarry site and information in the Condition Compliant Reports. Capacity assessments of the access would therefore be required in a reserved matters application.

The submission does not show the vehicular access. Any future detailed submission should indicate visibility splays at 2.4m by 43m in both directions. It is noted that the existing access appears to provide an adequate visibility splay to the nearside but is obstructed by the wall on the offside which is outside of the red line. Widening along the site frontage is required to provide a right turning pocket as the A646 is a strategic road. The zebra crossing to the west will limit options for repositioning the access. The impact of the access on the zebra crossing and nearby bus stop would need to be carefully considered. A Stage 1 Road Safety Audit of the access should accompany any reserved matters application.

Conditions would be provided with any reserved matters application

Given the above, and subject to further consideration at the reserved matters stage the proposal accords with policies BE5 and T18 of the RCUDP.

Flooding and drainage

Comments on the application included reference to a concern over the capacity of the existing drainage system along Burnley Road and how the proposed development could affect drainage and flood risk.

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.

For major developments, paragraph 165 establishes that sustainable drainage systems should be incorporated “unless there is clear evidence that this would be inappropriate development.

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 surface water via a soakaway.

The Lead Local Flood Authority was consulted on the proposal and recommended standard drainage conditions be attached to the decision notice; although the proposal is in outline with all matters reserved, the aforementioned conditions will be attached to the decision notice requesting the details of the proposed drainage. Subject to conditions, the proposal complies with Policies EP14, EP20 and EP22 of the RCUDP.

Ground conditions

Policy EP9 of the RCUDP refers to the development of contaminated sites.

Policy EP11 of the RCUDP refers to land stability.

The Assistant Director – Neighbourhoods (Environmental Health) was consulted on the proposal and provided the following comments:

Contaminated Land

Actual or potential land contamination should be investigated at the site and a Preliminary Risk Assessment (Phase I Desk Study Report) submitted to and approved in writing by the local planning authority.

A condition will be attached to the decision notice requiring the above study to be carried out prior to development taking place.

The Minerals Officer considered that a condition relating to land stability was appropriate and reasonable given the existing use of land as a quarry.

Subject to conditions relating to the submission of a land contamination report and a land stability report the proposal accords with policies EP9 and EP11 of the Replacement Calderdale Unitary Development Plan.

Wildlife Conservation

The site lies within the Bat Alert Area.

Policy NE16 of the RCUDP refers to the protection of protected species and NE17 refers to biodiversity enhancement.

The Assistant Director – Neighbourhoods – Conservation was consulted on the proposal and commented as follows:

No information to allow the ecological impact of the proposed development appears to have been submitted. I recommend that a Preliminary Ecological Assessment is carried out. This should include an assessment of the bat roosting potential. If there is potential, a bat survey meeting West Yorkshire minimum standards should be performed. The report should specify any required ecological mitigation.

Full proposals should specify biodiversity enhancement proposals. I would expect these to include incorporating permanent bat roosting / bird nesting features in most of the dwellings and the planting of native trees and hedgerows on the site boundaries. Existing vegetation should be retained where possible.

No removal or management of any tall vegetation, including brambles, ivy, trees and shrubs, should be carried out between 1st March and 31st August inclusive unless a competent ecologist has undertaken a bird survey immediately before the vegetation has been cleared and provided written confirmation that no birds will be harmed or disturbed and/or that there are appropriate measures in place to protect nesting birds on site. Any such written confirmation should be submitted to the Local Planning Authority.

Subsequently, the applicant provided a preliminary ecological assessment and the Conservation Officer was reconsulted and commented as follows:

I consider the ecological impact assessment to be satisfactory. Habitats are of limited ecological value within the wider landscape and, with mitigation, adverse impacts on protected and notable species can be avoided. The proposals would result in the loss of a small area of greenbelt, which is also of low ecological value.

A scheme for biodiversity mitigation and enhancement should be submitted to and approved in writing by the Local Planning Authority. This should include but not necessarily be restricted to the following:

- *Retention of existing trees and shrubs and protection measures.*
- *Planting of locally native species rich hedgerows on the site boundaries.*
- *Use of native species in the landscaping scheme.*
- *The integration of a permanent bat roosting or bird nesting feature in each of the dwellings.*
- *Measures, to include lighting design, to protect protected and notable species (such as badgers, hedgehogs and breeding birds) during and after construction.*
- *Measures should be taken to ensure Japanese knotweed (recorded 155m to the North West of the site) is not allowed to spread onto the site.*

The comments above refer to the loss of a small area of Green belt; however the applicant made a minor amendment to the red line in order to locate the proposed development within the existing urban area.

Subject to the above condition the proposals are considered to accord with policies NE16 and NE17 of the RCUDP.

Trees and Landscaping

There are no protected trees on the proposed development site.

Policy BE3 refers to landscaping.

The application is outline with all matters reserved, and therefore landscaping matters are not under consideration at this time and will be addressed through the reserved matters application. Subject to further consideration at the reserved matters stage, it is considered that the development complies with policies BE3 of the RCUDP.

Other Issues raised

Crime Prevention

RCUDP policy BE4 'Safety and Security Considerations' explains that *Developers should, prior to submitting detailed proposals, seek advice from the West Yorkshire Police Architectural Liaison Officer on designing out crime, and any recommendations received should be incorporated into the development proposal unless these conflict with other significant interests (for example, the interests of Listed Buildings). Developers are also encouraged to submit statements in conjunction with planning applications that emphasise the measures taken to design out crime.*

Paragraph 91 of the NPPF seeks to ensure developments create places that are safe, inclusive an accessible and which promote health and well being with a high standard of amenity for existing future users and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience.

The West Yorkshire Police ALO has been consulted and they have provided details of crime prevention measures. Whilst, they have no objections to the proposals, they recommend the site should be built to "secured by design" standards to keep the calls for service to a minimum.

Subject to a condition requiring the development is built to the required standards, the proposal accords with RCUDP policy BE4.

CONCLUSION

The proposal is considered to be acceptable subject to the conditions specified below. 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: 24 September 2019

Further Information

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

Paul Copeland (Case Officer) on 01422 392195