



Appeal Decision

Site visit made on 3 July 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Appeal Ref: APP/N4205/W/25/3360114

Land adjacent to Cox Green Quarries, Cox Green Road, Egerton BL7 9HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr & Mrs Howard Gregory against the decision of Bolton Metropolitan Borough Council.
 - The application Ref is 18072/24.
 - The development is the erection of 2 no. detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no. detached dwellings at Land adjacent to Cox Green Quarries, Egerton BL7 9HA in accordance with the terms of the application, Ref 18072/24, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr and Mrs Howard Gregory against Bolton Metropolitan Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council determined the planning application the National Planning Policy Framework (the Framework) was revised in December 2024. I have referred to updated paragraphs in my decision where necessary.

Main Issues

4. The main issues are:
 - whether the proposal would be in a suitable location having regard to local policies;
 - the effect of the proposal on Open Access Land; and
 - the effect of the proposal upon highway safety, with particular regard to the access arrangements into the site.

Reasons

Location

5. The appeal site comprises an area of land within a former quarry. It is accessed from Cox Green Lane via a strip of land/driveway. The large individual and

distinctive site mainly consists of vegetation and scrub. The boundary to the east partly comprises a rock face. The appeal site lies at the edge of an urban area but is within an area designated as 'Other Protected Open Land' (OPOL) in the Bolton Allocations Local Plan, 2014 (the AP) and Open Access Land (OAL). The Council advises that the application site is adjacent to Cox Green Quarry Site of Biological Importance (SBI) and not within the Green Belt.

6. Planning permission was granted at appeal¹ in 2018 for a single dwelling and garage, this had not been constructed. The appellant's state that the permission has been implemented, and all the applicable pre commencement conditions have been discharged. Whilst it is not within my remit to consider whether this has lawfully commenced it is a material consideration. However, this proposal seeks permission for two dwellings. The dwellings would be located beyond a long access drive, where the site starts to open out. They would be positioned along the eastern boundary of the site and mainly comprise single storey homes of a contemporary design .
7. Policy CG6AP of the AP states that within OPOL, residential development will be permitted provided that it meets specific criteria. The site is not significantly detached from other homes or from access to services and facilities. However, for the purposes of planning policy, it is outside of the urban area and does not fall within any of the categories specified in AP Policy CG6AP. The proposal would also not meet the requirements of OA5.1 of Bolton's Core Strategy Development Plan Document, 2011 (the CS) which seeks to direct new development to the existing urban areas.
8. The proposal would be in overall conflict with CS Policies OA5 and AP Policy CG6AP. I therefore conclude that the proposal would not be in a suitable location when considered against the locational criteria of these policies. There would be an 'in principle' policy harm resulting from this aspect of the development.

Open Access Land (OAL)

9. The Council advise that the OAL designation, which has not been disputed, gives a right of public access without having to use paths for walking, running, watching wildlife and climbing. The OAL is intersected by the rock face and the elevated section of Cox Green Road. The proposed development would result in additional loss of a portion of the OAL, in excess of that permitted in the 2018 appeal.
10. Interested parties suggest the OAL has been closed off. Other comments suggest the site attracts anti-social activities. The appellant's evidence suggest it is private. However, I have very little information regarding the level of use of this site historic or otherwise, or any particular qualities or characteristics, which the proposal would harm. The proposal would also not block the Public Right of Way (PROW) which runs to the southern edge of the site. Nor would it encroach significantly further than the development which was approved at appeal. I have no substantive evidence to disagree with the Council's assessment that the proposed design is acceptable and would not harm the character or appearance of the area.
11. However, the erection of dwellings and the creation of gardens would erode the sense of openness and unfettered access to the entire site. There are also no details before me regarding whether any mitigation measures or improvements to

¹ Appeal Ref: APP/N4205/W/18/3197086

accessibility would be provided to offset the loss of this OAL, as suggested by the Council's PROW officer. Furthermore, I am mindful of the requirements of the Framework at paragraph 105, referred to within the PROW officer consultation response, to protect and enhance public rights of way and access.

12. I therefore conclude that the proposal would have a harmful effect on OAL. The proposal would conflict with CS Policy OA5. Insofar as this is relevant to the proposal, this seeks to ensure new development respects open space.

Highway Safety

13. The development would be accessed at the point where there is a convergence of roads, accesses and driveways. It is positioned towards the head of Cox Green Road close to where it turns into a pedestrian footway. The road leading to the site climbs and is winding and relatively narrow. There are no double yellow lines. Parking arrangements are varied. Whilst some homes have driveways, I observed numerous vehicles park on the road reducing the road width further.
14. The Council's Highway Engineers have not objected to the proposal. They consider that the traffic generated by one additional dwelling would be negligible. I concur because one additional dwelling over and above that previously approved would not generate vehicle movements that are likely to be excessive.
15. There are also only a small number of homes beyond the appeal site to the left of the proposed access. To the right hand side the visibility of the narrow and steep Rock Terrace road would be restricted by the stone pillars. However the elevation and position of the access would allow views over vehicular traffic exiting from Rock Terrace onto Cox Green Road.
16. In all other views, there is a relatively open and unrestricted view of the road environment. The open area opposite the site access used for turning is not overly narrow and would likely provide space to accommodate the small number of vehicles that may meet and need to pass each other. In this particular part of the site, other road users, visitors, pedestrians and dog walkers encountering each other are likely to be visible and have space and traffic speeds here are likely to be very low given the culmination of Cox Green Road.
17. Although existing residents may double park vehicles on Cox Green Lane, the development provides its own off-street parking and would not exacerbate the situation. Although there may be a general trend of increased home shopping and deliveries, there is also general off-setting trends for homeworking. In any event the proposal would be able to accommodate parking, turning and that of its own deliveries and services.
18. Although the proposed access road is likely to be level, dragging bins may not be impossible for everyone, but could be difficult. However, the Council has not provided me with any evidence regarding the distance that refuse operatives can collect waste bins, or distance that residents are expected to drag them, or if there are dispensations or assistance for people who cannot take bins to the edge of their properties. In any event the Council has not demonstrated how this would be harmful to highway safety.
19. I acknowledge that vehicles may have crashed into walls, but I have no specific accident data before me which demonstrates that it was the road environment that

was inherently dangerous. Nor has it been substantiated that traffic speeds are high. Although there may be parking on-street I am not convinced the surrounding roads are heavily trafficked or unable to accommodate the scale of this proposal.

20. Although visibility at the access may not be fully in accordance with guidance contained in the Manual for Streets documents, the measures to address the visibility suggested by the Highway Authority through the imposition of conditions are reasonable for the scale of the development. This would require the formation of two passing bays along the proposed access and for the visibility at the junction of the access with Cox Green Road to be improved. This could be achieved by reducing the height of the wall and post on the eastern side of the track.
21. The Framework is clear that development may only be refused on highway grounds where there is a severe impact on operation of the network or an unacceptable impact on highway safety. I conclude that the development would not have a harmful effect upon highway safety; with particular regard to the access arrangements into the site. The proposal would accord with Policy JP-C8 of Places for Everyone Joint Development Plan 2022 to 2039, 2024, insofar as it seeks to prioritise safe and convenient access for all users.

Other Matters

22. I am aware other appeals have been considered and dismissed at the site. Whilst I do not have extensive details of the plans for those schemes, the scheme differs materially from those considered previously as it proposes a smaller number of dwellings. Furthermore, the Council considered the proposal respects and is sympathetic to the character of the site and the surrounding area and did not form a reason for refusal unlike the previous appeals.
23. The Council and the Greater Manchester Ecology Unit (GMEU) both advise that the site is adjacent Cox Green Quarry Site of Biological Importance (SBI). I note concerns about its position, and the Ecological Assessment Report provided in the appellant's Design and Access Statement suggest the site is within the SBI. I also note concerns about clearance of the site and the effect on ecology, and baseline assessment. However, the GMEU confirm the baseline position is correct. I am satisfied that conditions can be imposed to ensure that the proposed development would safeguard the natural environment, as suggested in the Council's officer report.
24. The Council in the officer report identified that the scale of the development does not require drainage details and that United Utilities have raised no objection to the proposal. Drainage details would also be required at Building Regulations stage. Furthermore, the application site is also within Flood Zone 1, meaning it is at least risk of flooding.
25. In addition to the matters outlined above, other concerns have been raised, including by local residents. Some relate to the proposed development's effect on the character and appearance of the area, affordability, ecology. These and the above matters were largely identified and considered within the Council officer's report on the appeal scheme at the application stage. Whilst they may have been discussed at the committee meeting, they were also before the Council when it prepared its evidence for the appeal. The Council has not concluded that they would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence which would prompt me to disagree with

the Council's conclusions in these respects subject to conditions as discussed below.

Conditions

26. I have had regard to the planning conditions that have been suggested by the Council. Where necessary I have made minor amendments for clarity.
27. I have imposed a condition specifying the approved plans as this provides certainty. I have imposed conditions, in the interests of ecology and biodiversity relating to habitat implementation, management, maintenance, monitoring, reasonable avoidance measures for amphibians and for the protection of trees and further landscape details.
28. Conditions are necessary for highway safety and these relate to visibility splays and passing places within the site. I have imposed a condition to ensure the development is undertaken in accordance with submitted details relating to site levels, risk assessments for land contamination, and for topsoil testing to safeguard future occupiers living conditions.
29. A condition securing accessible and adaptable dwellings has been imposed in the interests of the amenity of the development. Conditions to control permitted development rights for extensions and outbuildings, the extent of garden areas, and for samples of materials used in the construction of the development are necessary in the interests of the character of the area.

Planning Balance and Conclusion

30. The Council are unable to demonstrate a five-year supply of deliverable housing sites as required by the Framework. The Council confirm that they currently have a 3.7 year supply, set out from April 2024. I have no substantive evidence that this is not correct.
31. Paragraph 11d) of the Framework must be applied in the above circumstances. This states that where the policies which are most important for determining the application are out-of-date, planning permission be granted unless, the application of policies in this Framework that protect areas or assets of particular importance provide a strong reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
32. It is not disputed by the Council that, in the context of Footnote 8 to paragraph 11 of the Framework, AP Policy CG6AP and CS Policy OA5 for the supply of housing should not be considered up-to-date. The Council also attributes limited weight to these policies. I therefore attach limited weight to the harm arising from the locational conflict with these policies. The proposal would result in loss of OAL. No mitigation has been provided, but it would only comprise a small area, and approved development would already encroach further into the site. I therefore attach limited weight to the loss of OAL as it would not significantly undermine its function further. The loss of an area of OAL given the previous history of the site, does not result in a strong reason to refuse the proposal.
33. In the context of a 3.7 year housing land supply, the proposal would make a small, but important contribution to boosting the supply of housing in a relatively accessible location. The proposal would result in limited economic benefits in

respect of the construction of the dwellings and the contribution that new residents would make to local shops and services.

34. Highway matters, living conditions of neighbouring residents, flood risk, drainage and biodiversity issues can be addressed through the imposition of conditions or Building Control requirements. These matters weigh neither for nor against the development.
35. Whilst this is balanced, I find that that the adverse impacts of granting permission, would not significantly and demonstrably outweigh the cumulative benefits of the proposal. The proposed development would conflict with the development plan but material considerations within the Framework to significantly boost the supply of homes indicate that a decision should be made other than in accordance with it. I therefore conclude for the reasons given above the appeal should be allowed.

K Williams

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the following approved plans: 009; "Proposed Site Plan"; dated 04/10/2023; 010; "Floor Plans"; dated 04/10/2023; 011; and "Proposed Elevation Plan"; dated 04/10/2023.
3. Prior to the commencement of development, a Biodiversity Gain Plan shall be submitted to and approved in writing by the Local Planning Authority. The Biodiversity Gain Plan shall be prepared in accordance with "Biodiversity Net Gain Report"; by Fieldology Works Ltd; received 16 September 2024 and must include:
 - i. information about the steps taken or to be taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat;
 - ii. the pre-development biodiversity value of the entire onsite habitat;
 - iii. any registered offsite biodiversity gain allocated or proposed to be allocated to the entire development and the biodiversity value of that gain in relation to the development;
 - iv. any biodiversity credits purchased or proposed to be purchased for the entire development; and
 - v. the post-development biodiversity value of the onsite habitat for the entire development and each phase of development.

Once approved the development shall commence in accordance with the approved details.

4. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP), prepared in accordance with the approved Biodiversity Gain Plan has been submitted to, and approved in writing by, the local planning authority. This shall include:
 - i. a non-technical summary;
 - ii. the roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - iii. the planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the approved Biodiversity Gain Plan;
 - iv. the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development; and
 - v. the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the local planning authority

Once approved the development shall commence in accordance with the approved details.

5. Before the approved development is commenced details of the existing and proposed ground levels within the site, including spot heights, cross sections and finished floor levels of all buildings and structures shall be submitted to and

approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter retained.

6. Prior to the commencement of development, a Method Statement shall be submitted to and approved in writing by the Local Planning Authority, which provides details of the Reasonable Avoidance Measures (RAMs) to identify mitigation measures to protect and avoid any possible harm to reptiles and amphibians during construction. The development shall be undertaken in accordance with the approved RAMs.
7. No development or stripping of soil shall be started until the trees within or overhanging the site which are to be retained have been surrounded by fences of a type and in the location as shown within "Arboricultural Impact Assessment"; ref. WC-246.1b; by Woodsage Consulting; dated 8th April 2024. The approved fencing shall remain in the agreed location (in accordance with BS 5837:2012) until the development is completed or unless otherwise agreed in writing with the Local Planning Authority and there shall be no work, including the storage of materials, or placing of site cabins, within the fenced area(s).
8. Notwithstanding any description of materials in the application no above ground construction works shall take place until samples or full details of materials to be used externally on the buildings have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the type, colour and texture of the materials. The development shall be implemented in accordance with the approved details.
9. Prior to any doors or windows being installed, a detailed specification for all doors and windows shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full before the development is first occupied and retained thereafter.
10. a) The detailed design for each dwelling hereby approved shall meet the M4(2): Accessible and Adaptable dwellings standard of Approved Document M: Access to and use of buildings of the Building Regulations 2010 (as amended).
b) No above ground works shall take place until written confirmation from the appointed building control body has been submitted to and approved in writing by the local planning authority to demonstrate compliance with part (a).
c) The development shall be carried out in accordance with the details approved under part c).
11. Prior to the development hereby approved being first brought into use a visibility splay measuring 2.4 metres by 25 metres shall be provided at the junction of the access with Cox Green Road and subsequently remain free of all obstructions between the height of 1.05 metres and 2 metres (as measured above carriageway level).
12. Prior to the development hereby approved being first occupied, two passing bays shall be provided along the vehicle access into the site from Cox Green Road, in accordance with details which shall be submitted to and approved in writing by the local planning authority. The passing bays shall remain free of obstructions and thereafter retained for the life of the development.

13. Notwithstanding the submitted details, trees and shrubs shall be planted on the site in accordance with a landscape scheme to be submitted and approved in writing by the Local Planning Authority prior to the development being first brought into use. The approved scheme shall be implemented in full and carried out within 6 months of the occupation of any of the buildings or the completion of the development, whichever is the sooner, or in accordance with phasing details included as part of the scheme and subsequently approved by the Local Planning Authority. Any trees and shrubs that die or are removed within ten years of planting shall be replaced in the next available planting season with others of similar size and species.
14. The development hereby approved shall not be occupied unless and until the habitat creation and enhancement works set out in the approved HMMP have been completed; and a completion report, evidencing the completed habitat enhancements, has been submitted to, and approved in writing by the Local Planning Authority. The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.
15. Monitoring reports shall be submitted to the local planning authority in writing in accordance with the methodology and frequency specified in the approved HMMP.
16. The development hereby approved shall be carried out in full accordance with the following approved Preliminary Risk Assessment: Cox Green Road, dated 13th April 2021 (ref A4100/21:) by Earth Environmental & Geotechnical Ltd. Where the Preliminary Risk Assessment identified a Watching Brief it should be undertaken by a suitably qualified person. If during construction and prior to completion of the development hereby approved, contamination or gas migration is found or suspected, the developer shall contact the Local Planning Authority immediately and submit proposals for investigation and remediation of the contamination or gas migration within seven days from the date that it is found or suspected to the Local Planning Authority for approval in writing. A Verification / Completion Report should be presented to Local Planning Authority detailing the objectives and findings of the Watching Brief and appropriate recommendations, where necessary. The report shall also include any imported soil descriptions, laboratory testing certificates and photographs. This should be approved in writing to the Local Planning Authority before the development is first brought into use or first occupation.
17. No soil or soil forming materials shall be brought to the site until a testing methodology including testing schedules, sampling frequencies, allowable contaminant concentrations (as determined by appropriate risk assessment) and source material information has been submitted to and approved in writing by the Local Planning Authority. The approved testing methodology shall be implemented in full during the importation of soil or soil forming material. Prior to the development being first brought into use or occupied a verification report including soil descriptions, laboratory certificates and photographs shall be submitted to and approved in writing by the Local Planning Authority.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no extensions, porches, garages, outbuildings, sheds, decking, greenhouses, hardstanding, fences, gates, walls, dormers or any other alterations to the roof (other than those expressly authorised by this permission) shall be constructed.
19. The curtilages of the two property is being treated for planning purposes as that defined on the approved drawing 009; "Proposed Site Plan"; dated 04/10/2023.

End of Schedule