

<b>Application Number:</b>	21/01379/FUL
<b>Proposal:</b>	Proposed Development of 6no. detached dwellings.
<b>Site:</b>	Hanover Memorial Gardens, Hanover Street, Mossley
<b>Applicant:</b>	Mr Andrew Rhodes
<b>Recommendation:</b>	Refuse planning permission.
<b>Reason for Report:</b>	Speakers Panel decision is required in accordance with the Council's constitution because a ward Councillor and four members of the public have requested a Speakers Panel decision.
<b>Background Papers:</b>	The planning application documents are background papers to the report. They are open to inspection in accordance with Section 100D of the Local Government Act 1972.

## **1. SITE & SURROUNDINGS**

- 1.1 Situated approximately 150 metres to the east of the Mossley town centre boundary, the site is located in a predominantly residential area in close proximity to local bus routes. The closest primary school on Mountain Street is situated approximately 150m to the east of the site.
- 1.2 The site is situated at a higher level (approx.16.8m) than properties to the east (rear) on Stamford Street. The remaining boundaries about the existing properties on Hanover Street.
- 1.3 Historically there were sandstone quarries to the west of Stamford Road and the remnants of the rock face run north to south parallel to Stamford Road and form the eastern boundary of the application site. Due to the topography of the area, the ground level of the site is slightly lower than Hanover Street and has an elevated position some 4/5 metres above the ground level on Stamford Road. In the 1950's, the site was turned into a memorial gardens for pets and this use does not appear to have altered to the present day. The rest of the land is overgrown open land.

## **2. PROPOSAL**

- 2.1 The application is for full planning permission for the development of 6no, 2-storey detached dwellings with habitable roof space on 0.16 hectares of land between Hanover Street to the west and the rear of houses on Stamford Road to the east.
- 2.2 The development would be accessed from Hanover Street with individual properties and driveways also fronting Hanover Street. Each house would have front and rear gardens and be provided with sufficient space to park two cars off-street.
- 2.3 All of the buildings would be two storey with a basement below street level and the roof space maximised, rising to a height above street level of 2.1m at eaves level and 6.3m at ridge and at the rear would be 5.3m to eaves level.
- 2.4 The properties would measure 9.7m in length with a width of 8m. To the rear is a balcony. All the properties would be stone built with a slate roof.
- 2.5 The application is supported with the following documents :
  - Planning Statement

- Proposed Layout of houses showing location of piling and Section Drawings
- Site Investigation and Re-evaluation of Slope Stability, dated 28<sup>th</sup> August 2007
- Meeting notes between TerraConsult (geotechnical specialist) and Greater Manchester Geological Unit (GMGU) held on 16th May 2007.
- Walkover Inspection
- Supply and Installation of Rockfall Protection Measures
- Method Statement and Control proposals for Japanese Knotweed

### **3. PLANNING HISTORY**

- 3.1 15/00878/FUL– Development of 6 No. detached houses – Approved on 05.01.2017.
- 3.2 11/00730/REM– Approval of reserved matters relating to landscaping, access, scale and appearance following outline consent for six dwellings under reference 11/00072/OUT– Refused on 05.03.2014. – Appeal dismissed 26.02.2015.
- 3.3 11/00072/OUT– Renewal of planning application 03/00817/OUT for Residential Development – OUTLINE – approved on 08.04.2011.
- 3.4 10/00805/REM– Approval of reserved matters relating to landscaping, access, scale and appearance following outline consent 03/00817/OUT – Withdrawn on 15.10.2010.
- 3.5 03/00817/OUT - Residential Development – OUTLINE. Approved on 08.04.2008.

### **4. PLANNING POLICY**

#### **National Planning Policy Framework (NPPF)**

- 4.1 Paragraph 9 of the National Planning Policy Framework (NPPF) states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area.
- 4.2 Paragraph 11 states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay (as per section 38(6) of the Planning and Compulsory Purchase Act 2004). However, where the development plan is absent, silent or out of date, planning permission should be granted unless the application of policies in the NPPF that protects areas or assets of particular importance, provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 4.3 Paragraph 12 of the NPPF clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

#### **Development Plan**

- 4.4 The adopted development plan is the Tameside Unitary Development Plan (2004) and the Greater Manchester Joint Waste Development Plan Document (2012).

## Tameside Unitary Development Plan (2004)

### 4.5 **Part 1 Policies:**

- 1.3: Creating a Cleaner and Greener Environment.
- 1.4: Providing More Choice and Quality Homes.
- 1.5: Following the Principles of Sustainable Development
- 1.10: Protecting and Enhancing the Natural Environment
- 1.12: Ensuring an Accessible, Safe and Healthy Environment

### 4.6 **Part 2 Policies:**

- C1: Townscape and Urban Form
- H1: Housing Land Provision
- H2: Unallocated Sites
- H4: Type, Size and Affordability of Dwellings.
- H10: Detailed Design of Housing Developments.
- T1: Highway Improvement and Traffic Management.
- T10: Parking.
- N5: Trees Within Development Sites
- MW11: Contaminated Land

### **Supplementary Planning Documents**

#### 4.7 Residential Design Supplementary Planning Document

### **Places for Everyone**

4.8 The Places for Everyone Joint Development Plan Document was published in August 2021. It was submitted to the Secretary of State in February 2022 and inspectors are appointed to carry out an independent examination. It is a joint plan covering nine of the ten Greater Manchester districts, including Tameside, and is intended to provide the overarching framework to strategically manage growth across the boroughs.

4.9 Paragraph 48 in the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight may be given); the extent to which there are unresolved objections (the less significant, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

4.10 Whilst Places for Everyone has been published and submitted, a number of representations have been received objecting to policies, and so in accordance with paragraph 48 of the NPPF, only very limited weight can be given to those policies at this time.

### **Other Considerations**

4.11 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

4.12 The application has been considered in accordance with the Tameside One Equality Scheme (2018-22), which seeks to prevent unlawful discrimination, promote equality of opportunity and good relations between people in a diverse community. In this case the proposed development is not anticipated to have any potential impact from an equality perspective.

## **5. PUBLICITY CARRIED OUT**

- 5.1 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement, the application has been advertised by a site notice and neighbour letters.

## **6. SUMMARY OF THIRD PARTY RESPONSES**

- 6.1 152 letters of representation have been received citing objections to the application on the following grounds:

### **Slope Stability/Structure**

- I have it on council level authority that the cliff on which the land sits is unsafe and the last planning permission should never have been granted.
- The cliff on which the development sits, has been deemed unsafe on the record by survey.
- The cliffs would not have become safe over time.
- To build houses on this land would be dangerous due to the fault and the piling, overburden an already failing infrastructure.
- The Mossley Fault line and the former Colliery on Stamford Road. The Deep piling that would be required could have a disastrous affect upon the fault and cause structural damage to existing houses on Stamford Road, Hanover Street and Mountain Street. This is a significant risk and a hazard to life.
- Applications have been refused a number of times for this site, each listing issues with properties on Stamford Road, suitability of the site and land slide/rock fall, issues and faults associated to Hanover St, access to the site and disruption it would cause.
- In the past the land has been considered unsafe and planning permission has been refused. I cannot imagine things have changed since then and I am surprised that planning permission was granted subsequently, which has now obviously expired.
- Area/ground is unstable.
- There have been previous structural surveys done on this piece of land and the land was found to be structurally and irrefutably unsafe.
- Over the years there have been many rockfalls, as evidenced by the substantial screen which has built up at the foot of the cliff face. This has occurred because of the inherent instability of the site; and in spite of the fact that there have been no buildings on the cliff top.
- The site forms part of a geographical fault line which runs from Jacob's Ladder to Mossley Park, parallel to Hanover Street and Stamford Road; the same fault line which caused the huge landslide in Mossley Park in 2002 which necessitated the building of retaining walls etc. at great expense. Again, this occurred because of the inherent instability of the land, combined with water erosion, and despite the fact that there were no buildings contributing their weight to causing the landslide.
- Many houses on Hanover Street have had to be underpinned over the years as a result of subsidence on this very same fault line. Similarly, the cliff face to the rear of the properties at Rock Bank Terrace on Stamford Road has also suffered from rock falls, even though no properties have been erected on the top of it. Also in the 1960s, the house at 11 Stamford Road had to be demolished as a result of water erosion flooding from the same cliff.
- In 1973, such was the concern of Mossley Borough Council with regard to this fault line, especially concerning the safety of the local residents, that they commissioned a geological and scientific study from Mossley Park to the top of Jacob's Ladder. This was carried out by various experts, e.g. Prof. Howell (the leading expert of the day) and his team from Manchester University. They described the rock formation as being like huge building blocks, all piled one on top of another. Leave this alone, and all would be well.

BUT disturb this delicate balance, and major problems would ensue. Their conclusion was unequivocal: this land was so unstable that it must NEVER be built on.

- The preparation of the site will apparently involve driven piles and concrete beams and supports, which must have a detrimental effect on its already fragile stability; similarly, drilling holes into the cliff face for steel anchor bolts and huge securing pins for meshing will make matters worse, not better. What protection will a mesh grid provide against a landslide? All this, combined with the huge weight of six houses is a recipe for disaster.
- In 2000, we were granted planning permission by Tameside Council to excavate a parking area between 27 Stamford Road and Jacob's ladder, but only on condition that we built a double retaining wall. The Council's own engineers emphasised that this was necessary because the land, although some distance from the fault line itself was "unstable"
- The safety and wellbeing of the present residents of those houses on Stamford Road and Hanover Street in close proximity to the site are paramount; as indeed are the safety and wellbeing of those people who might live in the new development should it be built.
- Who would accept legal liability and responsibility should a landslide occur or for any damage to people or property? The builders, the Council, or both?
- The Council need to ensure that the safety and wellbeing of its residents are secured.
- This site has previously been declared unfit for development, based on a number of concerns around rock falls, fault lines and a history of damage and inconvenience caused by attempts to develop in this area.
- Nothing in the current plans goes anyway to addressing those concerns, and to proceed without a thorough evaluation of the potential risks and inconvenience to local residents is irresponsible.
- What has been done to address the very real concerns that have caused this development to be blocked previously?
- Making the cliff (an adjacent part of which has historically suffered from a rock fall event) safe requires access which is impossible, as well as being detrimental to the aesthetics of the surroundings.
- The development is on a cliff, an area which has in its history had structural issues/collapse - therefore building such a large development on a fragile site is dangerous and unnecessary as there is not a shortage of property in the area.
- A large landslide about 20 years ago blocked Stamford Rd below it for about 10 weeks causing carnage to the traffic and residents of Mossley. The residents who live close by on Hanover Street and the adjoining houses would also be at risk of landslide.
- Our properties and gardens are right underneath this, there is a strong possibility of any falling debris caused by the development to damage our property and even cause physical harm to any residents outside in their own gardens
- Long term impacts from potentially making the rock face any more unstable than it already is.
- There is also water running underneath the proposed development site, again not visible from the side the surveys have been done from, but from here you can see it pours out of the rock face, down it, and forms a small stream at the back of our property. This is obviously cause for concern. Freeze/thaw cycles will have had a huge impact on the stability of the rock face that we cant even see, which will only get worse as the years go by.
- This site has underground water courses and is made up of fragmented rock below ground.
- The sheer amount of excavation and construction needed to build these six homes is huge with obvious potential consequences.
- The land is clearly unsuitable for building on and I have huge concerns on the safety of our house if this goes ahead.
- Added weight to hillside could be extremely dangers to retaining wall below.
- Dangerous site with large overhang which is an embankment .Once this is disturbed it could collapse down onto Stamford Rd or the railway.

- Building so many large houses on the precipice of a hill of unsafe ground will only lead to land slips in the future and could affect houses further down the hill on Stamford Road and could cause issues of the main road as well.
- Pile driving will cause movement and damage to my property, I feel the gradient of this land is unstable, it will cause movement in neighbouring properties.
- This land has a long history of subsidence, and as such is a health & safety issue.
- Not a suitable site for large machinery.
- The site is geologically unsuitable for building.
- The report, which accompanies the application in relation to the conditions of the unstable site, does not provide any confidence in this development, especially in the light of historic and credible local knowledge.
- The developer's survey reports are not even able to confirm that it is safe for building upon and does not go far enough in ensuring the stability of the area.
- One of the developer's reports even recommends netting the rockface, which would be detrimental to all flora & fauna. A netted rockface would also be out of keeping with the general appearance of Top Mossley from below.
- Any work taking place on the site risking the chance of destabilising the foundation. The developer.
- The rockface appears unstable small cascades of stone are not uncommon and water penetration of the rock surface appears to be a semi-regular occurrence.
- A neighbour on Stamford Road has suffered a land slip from the cliff face directly underneath the proposed development on Hanover Street.
- The bowling green in Mossley Park, 200 metres further down Stamford Road has been closed by Tameside Council because of a land slip which apparently occurred in early April.
- Remedial work along Stamford Road has previously had to be completed after landslide which caused chaos on the highway.
- I'm worried that building on the land above will cause more rocks to fall, endangering my family, and possibly more serious subsidence, potentially even putting my property at risk.
- This site has been considered unsafe for approx. 90 years.
- The H & H Building Solutions Ltd report of March 2011 was a response to an original report dating back to 12<sup>th</sup> November 2007 prepared by the Greater Manchester Geological Unit. The report was required to address existing and proposed ground levels, slope engineering rock fall proposals, foundation designs, ground and surface water management scheme and drainage measures. It is reported as being accepted by the Applicant and Structural Engineers that prior to carrying out any development, further assessment of the slope was required to ensure that the development is properly and fully engineered and designed.

### **Highways/Traffic & Parking Matters**

- There are schools in the area and at school drop off and pick up time the roads are littered with vehicles going too fast and parking haphazardly. Building more houses isn't going to ease the situation.
- Mountain St already suffers from an excess of traffic as it is a cut through for three schools and parking around this area is horrendous.
- Increase in 12 more vehicles without sufficient street areas to park.
- No capacity for on street parking and provision for parking is inadequate.
- The land is at a narrow and very busy T junction of two narrow streets close to a primary school and there are already issues with traffic congestion and parking on the street. This will be worsened by more houses in the area.
- I am concerned that heavy plant traffic/site traffic could cause disruption and potential road hazards during construction on Hanover Street and Mountain Street.
- Increased traffic in this area would be dangerous.

- The infrastructure can not accommodate more tenants. More traffic, more refuse, more disruption to residents. The recent development at the end of Hanover street (flats) has resulted in the tenants using the pavement as parking( very dangerous a tragedy waiting to happen).
- The building of these houses will not only cause severe issues with access, and danger to the pedestrians that use it frequently on their way to the park.
- The proposed access to the number of dwellings is inappropriate and unsuitable & will be detrimental to highway safety.
- I would expect the development to cause road blockages and jams.
- Will further increase traffic movement and will further exacerbate the problems we already have with heavy traffic and lack of parking.
- Excess traffic and insufficient infrastructure.

## **Ecology**

- What provisions will there be to safeguard wildlife and re-home the animals on site which have been viewed?
- Japanese knotweed has been around on site since the 2000s. The knotweed has been chemically treated on numerous occasions but still keeps sprouting back up and multiplying rapidly. The knotweed covers a substantial amount of the site.
- I remember when this used to be a beautiful community space and wildlife was prevalent.
- The uniqueness of a pet cemetery.
- I am also appalled by the destruction of the pet cemetery as people will have paid good money to inter their pets there and this will now be ripped up along with trees and shrubs to make way for oversized houses that most people in Mossley could not afford.
- We are rapidly losing green land around Mossley so I feel the Hanover memorial gardens would be better developed as a space for everyone to enjoy.
- The destruction of the natural habitat has been devastating and dreadful.
- The builder/owner of the land has hacked at the land with no regard to the wildlife living within the plot.
- The site is of high environmental interest with a variety of birds, bats, foxes along with plant life using this as habitat. Building work as well as noise will destroy this and impact negatively on the local ecology and deprive such wildlife of their natural environment.
- Finally, there are a number of bats that roost in the crevices of the rock face and the whole area just below the site is used by bats for foraging and commuting. The proposed development will cause significant disturbance if not all-out destruction. It also causes an issue with potentially netting over the rock face to try to prevent falling debris as this will prevent bats from accessing their roosts, which is illegal to do.
- Trees have been cut down already on this land which will cause untold damage to the community.
- The area is currently one of the few places undeveloped and a nature area. Cramping every possible area with housing is causing real environmental problems in Mossley.
- We are losing whatever green spaces we have left.
- The plans are not viable due to the environment
- Owls are also often seen in the trees
- Trees have clearly been felled on the proposed site and we would be interested to know whether permission to fell those trees was required and granted.
- This land is used as a forage ground for protected species.

## **Visual Amenity/Design**

- Be a blight on the landscape.
- Mossley is currently overburdened with houses and under provided for in terms of social spaces in comparison with other Tameside towns.
- Development too Big

- Out of character with surrounding area and not in keeping with the terraced houses in the area.
- The site of this development has one of the best views of the valley and beyond and if it were to go ahead it would mean this view would be lost forever for the towns people to enjoy.
- It's another eyesore to look at if you live across the valley.
- The land boasts beautiful views and these views will be blocked and lost.
- Properties will not match the style of homes in the area.
- Impact negatively on the surrounding area and would be detrimental to the area.
- Mossley is fast becoming a concrete jungle, we do not need more houses in what was a lovely little Town.
- The proposal will result in overdevelopment of a very limited site which will be detrimental to the residential and visual amenity of the proposed occupiers of the accommodation
- Loss of visual amenity
- Houses to be crammed into any undeveloped area of land in Mossley.
- Would dominate the street and excessively large
- This development will put more over crowding on the town.
- Very prominent on the hillside
- There is a trend of aggressive overdevelopment in Mossley

### **Flooding/Drainage**

- The drain on this land is constantly having to be looked at by United Utilities prior to further stress of 6 detached houses.
- The sewer drains have already been blocked on more than one occasion and this will also be a bigger risk with further housing.
- The two houses on Jacobs mount use a drain which runs across the proposed development site which frequently blocks requiring United utilities to attend. This occurs with only two houses using it and can only become unbearably worse with 6 more family sized houses using it.
- Efficient drainage for the site; especially dealing safely with sewage disposal.
- The site is steep and unsuitable risking flooding and drainage issues.
- The site is an important flood defence and building there seems dangerous and short sighted.
- Ongoing foul water issues for the rock bank buildings before this new development is added.

### **Loss of Sun/Day Lighting/Overshadowing/Overlooking**

- The houses would overlook us in an incredibly intrusive way as well as risk our safety
- Development overlooking the rear of properties along Stamford Road will undoubtedly create an environmentally oppressive vista and cause loss of light/earlier sunsets.
- Hillside with minimal garden/outdoor space.
- Directly impacts on the quality of life of residents.

### **Environmental Health**

- Emptying bins when they should be emptied according to the schedule is not being performed a further 6 houses will not improve that
- Bin waggons have been unable to access the street.
- Noise/Hours of operation.
- The noise from the development will be very disruptive to myself as a shift worker and I know that the same would be felt for the other shift workers in the street.
- The noise created by the building site would impact on us for a long period of time whilst this is being built.



- The noise from proposed developments will disturb local residents, especially during summer months and make enjoying outdoor space difficult.

### **Conflict With Land Use Policy/UDP**

- The application is considered to be in direct contradiction to the stated objective i.e. the loss of a space which has been attractive and has the potential to be.
- No reference to Mossley in certain sections of the UDP.
- The current application would appear to contradict/contravene the requirements of the paragraph detailed design of housing developments.
- The development is too large and is not affordable housing.

### **Other Matters**

- We've had enough new builds and no new infrastructure to support them
- Sets a precedent
- The present planning application is merely a revival of the old application which was completely rejected by the Speakers' Panel of Tameside Council in February 2014.
- Previous applications were rejected even after an appeal so why is this process starting again.
- Considering the many safety issues concerning this land I am of the opinion that Tameside MBC may have contravened correct procedure in overturning the 2014 decision.
- To build here would be for one reason, financial gain, not for any benefit to the community, not for any benefit to the infrastructure, just bottom line pounds shillings and pence.
- Previous refusals should be looked at, as part of this application.
- Not been consulted.
- The infrastructure of Mossley is not there for the ever growing population of the town.
- The doctors, dentists, local schools, nurseries are at breaking point and oversubscribed
- This is another example of house builder greed in Mossley where every bit of spare land is being turned into housing - it is time to stop this constant building on every spare bit of land.
- According to the deeds of Nos. 25 and 27 Stamford Road, five yards of land at the top of the cliff face is owned by the occupiers, not the building applicants. This crucial fact is not made clear on the drawings supplied by the applicants: Nor has permission for access either been sought or gained by the applicants at any time.
- Furthermore, no consultation with local residents who will be impacted and no provision has been provided for narrow streets that are incapable of accommodating large construction and heavy goods vehicles.
- The existing landowners have made no professional attempt to discharge the previous conditions.
- The landowner has created temporary accesses, remove trees and spread contamination on and off-site.
- Mossley is overcrowded as is and we do not need anything new to build.
- Health and Safety of residents – additional parking pressures means that fire trucks would be able to access the street.
- There is no benefit to the local area from this application.
- The houses are too big and not affordable living for Mossley people.
- Schools are already full and unable to take more children so the properties are not needed.
- Access for maintenance to the side of my property.
- House prices will decline
- This development will create a pressure on already over-stretched amenities.
- There are alternative brownfield sites within Mossley such as the former Mossley Hollins School building.

- Allowing this development serves only to line the pockets of greedy developers and will ultimately be detrimental to the area.
- 5 bedroom developments is neither wanted or needed by the community.
- The notion that allowing this development due to the previous approval being agreed needs to be thoroughly well thought through as it was never properly considered and properly agreed on and should therefore be ignored and treated as an initial planning request.
- There are too many risks associated with building here and it would be irresponsible for it to even be a consideration.

It is noted that there were six comments which were duplicated from the same member of public or address and have therefore not be counted within the 152 objections.

6.2 One letter of representation was received from a ward Councillor citing the following objections to the application :

- The proposed access to the number of dwellings is inappropriate and will be detrimental to highway safety.
- The proposal will result in overdevelopment of a very limited site which will be detrimental to the residential and visual amenity of the proposed occupiers of the accommodation and existing nearby dwellings by reason of overlooking.
- The layout and condition of this unstable site will result in unsafe conditions for the proposed occupiers and lead to the possibility of subsidence and flooding.
- The report which accompanies the application in relation to ground conditions, examines the issues and likely solutions, but it is felt that this does not provide any confidence in this development, especially in the light of historic and credible local knowledge
- Knotweed presence- despite attempts to clear the developer has not been able to.
- In 1973 there was a geological survey on the suitability of the land which deemed it unsafe and unsuitable for development. This was accepted by Mossley Borough Council and building was prohibited.
- An application was refused as recently as 5 March 2014, a decision confirmed as being correct by an inspector on February 26 2015.
- The original application was however somehow passed by an individual contrary to all the evidence and protocols which Tameside had previously endorsed. This person left the authority the next day.
- A speakers Panel was convened and objections raised in 2014 when plans were again submitted.
- The land was reinforced by Tameside Council at great expense, after the original landslide in 2002.
- Where the construction will take place this will cause major disruption to local residents including noise nuisance, dust, parking and safety issues when leaving and returning to their homes either on foot or vehicle.
- The street is a cut through for three local schools. St Joseph's, Livingstone School and St Georges. Children and parents walk across the T-junction to access the park at the bottom of Hanover Street on their way to school.
- The planning document refers to 'low rise' development, 6 five bedroom houses could not be classed as such, the area is predominantly terraced. This is out of character for the area.

6.3 Three letters of representation have been received to the application:

- Loss Of sun/day lighting/overshadowing.
- Loss of sunlight into my property and the possible lack of privacy as the land is high above and the possible view into are bedroom window and garden.
- Will all the Japanese knotweed within the blue line on the location plan will be dealt with permanently?

- Houses too big.
- Traffic and resources under unsustainable pressure.
- Appearance is cramped and the design ugly.
- Building material will stick out like a sore thumb alongside natural stone, as the existing large new estates do. Brick would look far better.
- There have been land stability issues in the past, and care needs to be taken in building on this site, as there are houses directly below, on Stamford road.
- The houses should be redesigned without large glass walls at the rear. They may be currently fashionable, possibly due to media influence, but are not a sustainable design as they will generate unwanted solar gain.

## **7. RESPONSES FROM CONSULTEES**

7.1 Structural Engineer – application should not be supported for the following reasons:

- The provided information to support the stability of the slope within the site is 15 years old we should not rely in this information as the site and the weather condition has changed since 2007.
- The historic information supplied suggests that the drift deposited on top of rock maybe subject to deep seated slope failure which will affect the slope stability within and outside the site.
- The consequences of clearing the vegetation from the site which will contribute to stability of the drift material may cause it to slide over the rock face on to the gardens of Stamford street properties.
- Terra Consult report recommend that the rock face global stability is to be considered.
- The condition of close by rock face which the Council is dealing with indicate the determination of the rock face within two years period.

7.2 Arboricultural Officer - All trees and vegetation have already been cleared from the footprint of the site. There are however existing trees immediately adjacent to the site boundary on Hanover Street. As the site has already been cleared there would be no Arboricultural objections to the proposal. The adjacent trees should be protected to BS5837 during all works and a Tree Protection Plan and Specification should be submitted and agreed to ensure this.

7.3 Local Highways Authority - Recommend approval for the application as the information and proposed plans supplied for the development would in the LHA opinion would not have on highways grounds an unacceptable impact on highway safety, or that the residual cumulative impact on the road network would be severe.

7.4 Greater Manchester Ecology Unit (GMEU) – The site has been cleared of trees and vegetation. We recommend that ecological issues previously identified as part of permission 15/00878/FUL are reapplied to any new permission.

7.5 Contaminated Land – No objections subject to recommended conditions.

7.6 Mossley Town Council – No comments received however, a number of objections referenced a Town Council meeting that took place to discuss the application and the comments have been included within the third party responses section above (section 6).

7.7 Environmental Health - No objections subject to recommended condition for construction hours.

7.8 United Utilities - No objections but recommend a condition is applied requiring that the site is drained in accordance with the drainage hierarchy.

7.9 Minerals and waste planning unit – No comments received.

## 8. ANALYSIS

### PRINCIPLE OF DEVELOPMENT

- 8.1 Policy H2 of the UDP states *“Unless other considerations take precedence in a particular case, the Council will permit the redevelopment of previously developed land for residential use and the conversion of existing buildings to such use, where these are not specifically allocated for this purpose in the plan. Residential development on greenfield land which is not specifically allocated for this purpose in the plan will not be permitted unless an adequate five year supply is no longer available through outstanding commitments and remaining allocated sites, inclusive of an appropriate allowance for brownfield windfalls.”*
- 8.2 The site is located within an established residential area and is unallocated on the UDP Proposals Map.
- 8.3 This site has a history of applications for residential development dating back to 1991. At the time, the site was proposed as urban greenspace in the draft UDP. Permission was refused at that time on the grounds of loss of urban greenspace and because of doubts over ground stability. A subsequent appeal was dismissed on urban greenspace grounds. The Inspector considered the stability issue, but found that the reports reached conflicting conclusions and declined to make a decision on this issue.
- 8.4 A further application was submitted in 2003, there were concerns raised from local residents and members about slope stability and the possible effects of building operations on the properties below on Stamford Road. The application was deferred to enable the applicant to undertake further site investigation work, additional measures were proposed and the council eventually granted outline planning permission on the 8th April 2008.
- 8.5 Further applications were submitted in 2011, an outline application was to renew the 2008 approval and was approved and conditioned to include measures to address slope stability, rock fall protection system, foundations. Submitted reports refer to measures necessary to cover these matters which were considered to be acceptable in principle.
- 8.6 Following from the outline permission, a reserved matters submission was also made in 2011. This was refused requiring further detailed geotechnical information to be provided and a subsequent appeal dismissed for the same reasons.
- 8.7 An application was submitted in 2015 for the development of 6.no detached houses which was approved in 2017 and conditioned to include measures to address slope stability, rock fall protection system, foundations. No conditions were discharged.
- 8.8 The principle of the development in this location has already been accepted with the granting of conditional outline permission under reference 11/00072/OUT (03/00817/OUT) and the previous application - 15/00878/FUL, although there are fundamental issues to overcome within this context.
- 8.9 Whilst it is accepted only part of the proposed development site had a previous use, the value of the site remaining vacant in its current form would be of little benefit and the development proposed would bring the site into beneficial use, provided that the constraints are appropriately addressed.
- 8.10 It is worth noting that the site is also located in a sustainable location within easy walking distance of Stamford Road, Mossley Town centre, train station and associated public facilities and amenities.

## 9. DESIGN

9.1 *Paragraph 130 states that planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); and,*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.”*

9.2 *Paragraph 134 of the National Planning Policy Framework states that “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes”.*

9.3 *UDP Policy C1 states “In considering proposals for built development, the Council will expect the distinct settlement pattern, open space features, topography, townscape and landscape character of specific areas of the Borough to be understood, and the nature of the surrounding fabric to be respected. The relationship between buildings and their setting should be given particular attention in the design of any proposal for development”.*

9.4 *UDP Policy H10 states “The layout, design and external appearance of proposed housing developments, which are acceptable in relation to other relevant policies in this plan, will be required to be of high quality and to meet the following more detailed criteria:*

- (a) a design which meets the needs of the potential occupiers, provides an attractive, convenient and safe environment for the local community, and complements or enhances the character and appearance of the surrounding area, and*
- (b) suitable arrangements for parking, access to and from the highway, and delivery, refuse and emergency vehicles, including access by pedestrians, cyclists and disabled people, and for convenient access to public transport where appropriate, with no unacceptable impact on the surrounding highway network, and*
- (c) suitable landscaping and fencing, including retention of existing features such as trees and hedges where practical, which enhance the appearance of the development, ensure privacy and security where necessary, enable discrete storage of wheelie bins and minimise the visual impact on surrounding areas.*

*The Council will encourage and permit new and innovative design solutions wherever this can be achieved without adverse effects on existing character.*

9.5 *Policy RD2 in the Residential Design SPD covers general character considerations and is clear in their expectations of achieving high quality development that enhances a locality and contributes to place making taking into account the historic environment, proportions existing building styles.*

9.6 *The proposed design of the properties are the same as the previous approvals. The layout would result in the main front elevations facing the highway. At the front, the houses would have a garage door, front door and small window at street level. A window at lower ground*

floor level, set into the slope, would be visible as the land drops downwards. A high roof would contain 4 rooflights to the front and 3 rooflights to the rear serving a third floor of accommodation.

- 9.7 Spaciousness and openness will be provided due to the generously sized garden and open space to the sides, rear and front of the properties which will contribute significantly to the visual quality of the area, and the pleasant sub-urban nature of the site.
- 9.8 Materials to match the surrounding dwellings are proposed in the form of stone, a slate roof and Upvc windows. The proposal would respect the design, scale, materials, character, appearance and proportions of the existing dwellings in the streetscene and would preserve character and appearance of the surrounding area noting the ridge height when viewed from Hanover Street is no higher than the neighbouring properties.
- 9.9 The proposal is therefore considered to be acceptable in terms of design and is considered to be in accordance with the NPPF and policies C1 and H10 of the UDP, the SPD; and, Sections 2 and 12 of the NPPF.

## **10. RESIDENTIAL AMENITY**

- 10.1 Paragraph 130(f) of the National Planning Policy Framework states that *“Planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*
- 10.2 *UDP Policy H10 states “any proposed housing development will be required to be of high quality and to meet the following criteria: - (d) no unacceptable impact on the amenity of neighbouring properties through noise, loss of privacy, overshadowing, or traffic, and (e) minimisation of the opportunities for crime and anti-social behaviour.”*
- 10.3 *Policy RD5 of the Residential Design SPD states “Minimum Privacy Distances must be achieved”.*
- 10.4 *Policy RD11 of the Residential Design SPD states “Houses - all houses should have private amenity space of a size and function suitable for its intended occupants. Houses of 3 or more bedrooms will be considered family homes and should have an outdoor space that reflects this..”*
- 10.5 *Policy RD12 of the Residential Design SPD states “Communal areas should be a private space for residents. Spaces should be considered an element of the overall design. Areas should not comprise of a bland space adjacent to a car park. Where appropriate, areas should be secure. Spaces should enable multi-resident use.”*
- 10.6 *Policy RD18 of the Residential Design SPD recommends minimum floor areas that residential developments should achieve. Internal space is interpreted by reference to the nearest equivalent new national technical standard which is given in the Government's Technical housing standards - nationally described space standard document (THS).*
- 10.7 *The adopted Residential Design Guide SPD (RDG) contains the separation distances that should be retained between buildings to prevent unreasonable overlooking into and overshadowing of neighbouring properties. A distance of 21 metres should be retained between an elevation containing habitable room windows and a corresponding neighbouring elevation that also contains a habitable room window, increasing by an extra 1m in distance for every extra 1m in height difference.*

- 10.8 Each of the new houses would be provided with private amenity space, in the form of front and rear gardens and off road parking, commensurate with the family homes.
- 10.9 The proposed houses are some 32m from the rear of houses on Stamford Road. Due to the land levels a separation distance of 37m is required. The distance is between 38 and 32m so in some parts is short of that requirement by 5m but given the distances being considered and the site constraint, it is considered to be acceptable in this circumstances, as there would be no unacceptable over-looking or overshadowing of neighbouring houses.
- 10.10 Being at a higher level there would be the opportunity for over-looking from the rear gardens of the new houses along the eastern side of the site into the gardens of the existing neighbouring houses on Stamford Road. The existing quarry wall, which would remain along this boundary, protrudes and provides a natural break for the site. The details of boundary treatments are 1.8m and is to be erected immediately behind the wall, in the gardens of the new houses. Only 80cm would be visible from the gardens of the existing houses, and thus any undue direct over-looking would be avoided.
- 10.11 Due to the topography of the site, and despite the proposed dwellings having an elevated position in relation to the properties to the east on Stamford Road, it is not considered the inclusion of balconies to the rear elevation of the proposed properties would cause undue damage to neighbouring occupiers' privacy. It is noted the proposed dwellings will be set back from the rear boundary of the site and this will ensure the future occupiers would have a limited view, including of the rear gardens, of the properties on Stamford Road with the view being provided of the roof slopes of the neighbouring properties and hills in the distance.
- 10.12 The siting of the proposed development would need to satisfy other criteria within policy H10 relating to privacy together with Policy RD5 of the SPD in ensuring there is no unacceptable impact on neighbours. The development has been sited to ensure the requirements of policy RD5 have been achieved noting there is a requirement for a separation distance of 14 metres on street frontages. There will be no impact on properties along Hanover Street to the west of the site noting the separation distance will be approximately 18metres. There is a separation distance of 13.8 metres to no.38 Mountain Street, which is marginally below the recommended privacy distance of 14 metres. However, it is found to be acceptable in this instance noting the windows to the side elevation of Mountain Street are secondary windows to habitable rooms and there is one small sized window to the front elevation of the proposed development serving a cloak room/toilet.
- 10.13 To the north of the site is a pair of two storey semi-detached dwellings with one of these properties having a secondary habitable room window within the gable facing the site. The facing gable of the proposed dwelling will be blank. The distance between these properties will be approximately 5 metres however policy RD5 allows a reduction in the minimum privacy distances if the affected window is not the main source of natural light. With the design of the proposed dwellings having a single storey aspect to Hanover Street and a pitched roof with a ridge at right angles to the existing dwelling, it is considered any impact the new dwellings may have in terms of loss of light and amenity would be reduced to an acceptable level.
- 10.14 The layout of the proposed development is such therefore that adequate spacing is achieved so that there would be no undue over-looking or over-shadowing both within the development and between the proposed dwellings and those existing. As such the development conforms to the requirements of the Residential Design SPD, UDP Policy H10 and Sections 1, 6 and 7 of the NPPF and is therefore acceptable.
- 10.15 Reflecting the requirement of Section 12 of the NPPF, that developments create places with a high standard of amenity for existing and future users, UDP policy H10(a) requires that the design of proposed housing developments, which are acceptable in relation to other relevant policies in the plan, meets the needs of the potential occupiers. Policy RD18 of the Residential Design SPD recommends minimum floor areas that residential developments

should achieve. Internal space is interpreted by reference to the nearest equivalent new national technical standard which is given in the Government's Technical housing standards - nationally described space standard document (THS).

- 10.16 A total of 204 square metres of internal floor area per house will be provided, thus the proposed dwellings meet the requirements of the THS for a 3-storey, 5-bedroom dwelling (approx. 134sqm). In terms of the residential environment that would be created the proposal is therefore considered compliant with policies 1.5 and H10(a) of the UDP; policy RD11 of the SPD; and, Section 12 of the NPPF.

## **11. HIGHWAY SAFETY**

- 11.1 Paragraph 111 states that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- 11.2 The LHA are satisfied that the access/egress from the dwelling onto Hanover Street is satisfactory. The LHA requires 1:14 max gradients on the driveways and the visibility splay onto Hanover Street complies with TMBC's SPD requirements.
- 11.3 A Section 278 agreement is required for this development to include a Street Lighting design and the widening of the existing footway at the front of the dwellings to 2metres to ensure safe access to the dwellings.
- 11.4 Policy RD8 states that there should be a maximum of 3 car parking spaces for 4+ bedroom dwellings, this is also reiterated within policy T10 of the councils UDP. The submitted plan shows parking provision for 2 no. off street parking space within the redline boundary along with an internal garage for each of the dwellings, which is in line with TMBC SPD requirements.
- 11.5 To promote sustainable modes of transport electric Vehicle Charging points are required for the development and cycle storage to be secured by condition, however it is noted the garage could be utilised to store bicycles.
- 11.6 The LHA are satisfied that the vehicle trips generated by the dwelling will not have not have in the LHA's opinion a residual cumulative impact on the road network that would be severe. Subject to the recommended conditions, the proposed impact on highway safety is considered acceptable and there are no objections from the highways engineers.
- 11.7 Reference was made within the Highways consultation response regarding Structural Implications that will be explained in detail in the next section of the report – Section 12.

## **12. SLOPE STABILITY**

- 12.1 *Paragraph 174 of the NPPF states that "Planning policies and decisions should contribute to and enhance the natural and local environment by: e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans."*
- 12.2 *Paragraph 183 of the NPPF states that "Planning policies and decisions should ensure that:*



- a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.”*

12.3 The National Planning Practice Guidance (NPPG) states that the effects of land instability may result in landslides, subsidence or ground heave. Failing to deal with this issue could cause harm to human health, local property and associated infrastructure, and the wider environment. They occur in different circumstances for different reasons and vary in their predictability and in their effect on development.

12.4 It goes on to say that the planning system has an important role in considering land stability by:

- minimising the risk and effects of land stability on property, infrastructure and the public;
- helping ensure that development does not occur in unstable locations or without appropriate precautions; and
- to bring unstable land, wherever possible, back into productive use.

12.5 Advice within the NPPG states that a preliminary assessment of ground instability should be carried out at the earliest possible stage before a detailed planning application is prepared. Applicants should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development of the site. A site needs to be assessed in the context of surrounding areas where subsidence, landslides and land compression could threaten the development within its anticipated life or damage neighbouring land or property. Such information could be provided to the planning authority in the form of a land stability or slope stability risk assessment report. Developers may choose to adopt phased reporting, eg desk study results followed by ground investigation results.

12.6 The site forms part of a geographical fault line which runs from Jacob's Ladder to Mossley Park, parallel to Hanover Street and Stamford Road. Geological information held by the British Geological Survey, confirms that the back end of the site is bedrock geology known as Fletcher Bank Grit made up of Sandstone that was sedimentary bedrock formed between 321.5 and 320 million years ago during the Carboniferous period.

12.7 Local residents have confirmed that in 1973, such was the concern of Mossley Borough Council with regard to fault line, especially concerning the safety of the local residents, a geological and scientific study was commissioned from Mossley Park to the top of Jacob's Ladder. This confirmed that the land is unstable.

12.8 Comments have been raised from local residents that many houses on Hanover Street have had to be underpinned over the years as a result of subsidence on this very same fault line. Similarly, the cliff face to the rear of the properties at Rock Bank Terrace on Stamford Road has also suffered from rock falls.

12.9 The previous approval on site in 2011 (11/00072/OUT) included measures to address slope stability, rock fall protection system, foundations. Submitted reports at this time referred to measures necessary to cover these matters which were considered to be acceptable in principle subject to a number of pre-commencement conditions.

- 12.10 Following the refusal of the reserved matters application (11/00730/REM) additional detailed geotechnical survey information was submitted with to overcome the earlier reason for refusal. The report stated that the slope stability and rock fall system will be achieved by protection of the rock face bordering the eastern edge of the site. This would involve encapsulating the face with a mesh grid fastened in accordance with BS approved installation. These works will provide slope stability and rock fall protection providing an improvement on the current situation of a bare slope.
- 12.11 In tandem to the above works, the foundations would comprise driven piles and supporting reinforced concrete beams. The proposed method of design is intended to prevent impact on slope stability.
- 12.12 Moving on from this, the previous approval on site in 2017 (15/00878/FUL) incorporated detailed conditions to overcome objections to earlier permissions, requiring details of the highways retaining structures on Hanover Street, and for a phased approach to the development to ensure that a suitably qualified person deals with the Japanese Knotweed on site and that the initial site clearance and overall treatment going forward is not affecting the overall stability of the rock face.
- 12.13 However, following an assessment from structural engineers in 2017, it was considered at that time whilst the information is acceptable and would confirm the proposal is viable, the submitted information did not make substantive progress to address fully the points raised at the outline stage, and further work was necessary to show the development is properly and fully engineered and designed. The previous conditions attached to the outline permission were attached to the decision. The documents relating to the application stated that the slope stability and rock fall system would be achieved by protection of the rock face bordering the eastern edge of the site. This would involve encapsulating the face with a mesh grid fastened in accordance with British Standard approved installation. These works will provide slope stability and rock fall protection providing an improvement on the current situation of a bare slope. In tandem to the above works, the foundations will comprise driven piles and supporting reinforced concrete beams. The proposed method of design is intended to prevent impact on slope stability. Surface water runoff from the proposed dwellings will be discharged into the existing surface water drain on Hanover Street with foul water discharged to the existing sewer on Hanover Street. It was considered the proposed dwellings would reduce existing water runoff thereby assisting with slope stability. The detailed build matters would otherwise be subject to compliance with the building regulations.
- 12.14 It was considered at the time that enough information had been submitted to allow the granting of planning permission. However, it was accepted by both the applicant and structural engineers, that prior to carrying out any development further assessments of the slope were required to ensure that the development can be properly carried out, fully engineered and designed. Within the delegated report, it stated that due to the costs involved it would be unreasonable to expect this to be carried out before the granting of planning permission so it was therefore considered appropriate that further detailed conditions to ensure further assessments of the slope was required to any approval given.
- 12.15 In the intervening years from 2017 to present, no further information has been submitted and no discharge of condition applications were received or determined.
- 12.16 Following submission of this application, the site has been visited, where the circumstances have changed since the previous permission in 2017. The site has been cleared. It is apparent that part of the slope towards the rear backing onto the properties on Stamford Road is very steep and there are some cracks/gaps are forming on the site.
- 12.17 The structural engineer has viewed the application and stated that the proposal cannot be supported for the following reasons:

- The provided information to support the stability of the slope within the site is 15 years old, and cannot be relied on as the site and the weather condition has changed since 2007.
- The historic information supplied suggests that the drift deposited on top of rock maybe subject to deep seated slope failure which will affect the slope stability within and outside the site.
- The consequences of clearing the vegetation from the site, which will contribute to stability of the drift material may cause it to slide over the rock face on to the gardens of Stamford street properties.
- The information recommends that the rock face global stability needs to be considered.
- The condition of close by rock faces that the Council is dealing with, indicates the deterioration of the rock face.

12.18 On some sites, there is a case for conditions to be imposed requiring further details to be submitted and approved before development starts, as per the previous approvals mentioned in detail above. However in the case of this application, given the exposure of the site and the close proximity of the properties on Stamford Road, it is considered that this is a particularly sensitive location in which full details and up to date slope stability assessment reports are required and need to be appraised before an application can be approved. The structural engineer confirms that there has not been a sufficient level of detail provided in this case.

12.19 Whilst it is accepted that the submitted information was considered appropriate for an approval in 2017 (15/00878/FUL) and in 2011 (11/00072/OUT). It is not considered acceptable in this instance noting the investigations, evaluations, slope details are at least 14 years out of date, and as referenced by the structural engineer above, in the intervening years there might have been further erosion of the slope, taking into account climate change and the clearance of vegetation and trees on site in 2019. With the passage of time, the site circumstances may have changed, as approximately 150 metres along Hanover Street to the south, Tameside Council has closed the bowling green and club in Mossley Park following an inspection of the rock face which occurred in early April 2022. This rock face is the same as located on the application site and therefore potentially poses an unacceptable risk.

12.20 A walkover inspection has been undertaken in April 2022 and an updated supply and Installation of Rockfall Protection Measures dated 20/5/22 has been submitted. However no up to date detailed assessment of the risk from land instability has been submitted to support the application. Whilst an up to date slope stability report was requested, the applicant was unwilling to submit. In the absence of such information, it is not possible to ensure that the proposed development will not contribute to, or be at an unacceptable risk from, or be adversely affected by, unacceptable levels of land instability and therefore the application is contrary to policies 174 and 183 of the NPPF.

### **13. ECOLOGY, TREES AND LANDSCAPING**

13.1 Paragraph 174 of NPPF states that *“Planning policies and decisions should contribute to and enhance the natural and local environment by:*

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;”*

- 13.2 No ecological report has been provided, GEMU previously accepted that it was very unlikely that any such species were present. The only species that could theoretically be present would be badger which is known to be present in the locality. Given the site has since been cleared of vegetation, the risks will have been reduced and any setts revealed. It is therefore recommended an informative in relation to badgers be attached to any permission.
- 13.3 Whilst the site has recently been cleared of vegetation, given the planning history, it is possible that development may not occur for some time and scrub re-establish were if planning permission is granted, a condition would be recommended in relation to a bird nest survey.
- 13.4 It is acknowledged that Japanese knotweed, included within schedule 9 part 2 of the Wildlife & Countryside Act 1981, as amended, is present on the site. It is an offence to introduce or cause to grow wild any plant listed under this schedule. A method statement has been provided, which includes spraying with herbicide over 3 and half years and or excavation if works need to occur prior to eradication. From an ecological perspective there are no issues with this approach, but it is noted that there appears to have been concerns over slope stability from an engineering perspective. As such it is recommended that prior to agreement of the method statement consultation, A slope stability assessment be is carried out regarding the risks of excavation of Japanese knotweed. If excavation is advised against, then the knotweed method statement would need to be amended.
- 13.5 As referenced above Section 174 of the NPPF states that the planning policies and decisions should contribute to and enhance the natural and local environment. It was previously agreed that mitigation for the loss of trees and associated bird nesting habitat could occur on-site, with condition 19 of the previous permission 15/00878/FUL dealing with mitigation for loss of trees and bird nesting habitat. However since 2015, planning policy guidance has strengthened the requirement to mitigate for loss of biodiversity, with 10% net gain forecast to become mandatory around November 2023. Therefore despite the site now having been cleared, condition 19 of the previous permission should be reapplied, with mitigation requirements in-line with what was present in 2015, with the only amendment being the need to update the planning policy reference.
- 13.6 All trees and vegetation have already been cleared from the footprint of the site. There are however existing trees immediately adjacent to the site boundary on Hanover Street. There are no arboricultural objections to the proposal subject to the adjacent trees being be protected to British Standards during all works including a tree protection plan and specification which should be submitted and agreed to ensure this. It is noted that the trees on site are not protected and therefore permission was not and is not required for the removal of the trees on site.
- 13.7 The proposed site plan indicates that 6 trees are proposed to each rear garden of the properties including shrub planting and a grassed area. 2. no trees and shrub planting is proposed to the front garden. As a result the impact on ecology and trees is acceptable.

#### **14. DRAINAGE AND FLOOD RISK**

- 14.1 The site is located within flood zone 1 and is at the lowest risk of flooding. The applicant has not submitted a drainage strategy however has referenced within their planning statement that surface water runoff from the roof planes of the dwellings will be collected and discharged into the existing surface water drain in Hanover Street. Foul drainage will be discharged into the existing combined sewer in Hanover Street. This will be achieved by gravity flow or, if necessary, a macerator pump system.

- 14.2 The impact on drainage and flood risk is considered acceptable in principle subject to the recommended condition from United Utilities and the LLFA for the submission of a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions.
- 14.3 The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The strategy shall demonstrate that foul water and surface water shall be drained from the site via separate mechanisms and shall detail existing and proposed surface water run-off rates. The strategy shall also include details of on-going management and maintenance arrangements.
- 14.4 Following the above assessment, it is considered that the proposals would not result in a detrimental impact on flood risk or drainage capacity.

## **15. GROUND CONDITIONS**

- 15.1 The site falls outside of the Coal Authority's defined Development High Risk Area. As such, a Coal Mining Risk Assessment is not required.
- 15.2 Historical mapping from the early to mid-nineteenth century displayed that the site was undeveloped. However, a large rectangular tank of unknown constituents is shown directly adjacent to the south eastern corner of the proposed development area. An old quarry is also displayed adjacent to the eastern boundary although dwellings appear to occupy the area of the former quarry. In the early twentieth century, the site appears to have been repurposed for smallholdings and a number of small buildings are shown. In the 1950s, the site was turned into a memorial gardens for pets and this use does not appear to have altered to the present day.
- 15.3 Terra Consult Site Investigation and Re-Evaluation of Slope Stability report dated 28 August 2007 (reference: 0785/001 LRv0) was included with the planning application. This report provides some details of the ground conditions at the site although, no contaminated land risk assessment is included because this report appears to have been produced to address slope stability concerns and not contamination issues.
- 15.4 This report identified that made ground was encountered at the site from a depth of 0.25m below ground level (bgl) to a maximum of 5m bgl. No contamination soil analysis was undertaken of this material. Made ground can be a source of elevated concentrations of contaminants, which may exceed residential screening criteria.
- 15.5 It is noted that some ground gas monitoring has been undertaken and this did not appear to identify a ground gas risk. However, no methodology as to why gas wells were installed in certain locations or the frequency of monitoring was included. Therefore, the ground gas risk will need to be re-assessed.
- 15.6 In addition, a tank of unknown constituents is shown on historical mapping. If this was used to store oils/fuels, any soils or groundwater located near this feature may have been impacted by mobile contaminants that could pose a contamination risk.
- 15.7 In addition, an initial appraisal of the potential contamination risks will need to be undertaken in a preliminary risk assessment report, this will identify any potential contamination sources (i.e. such as the former tank) and the contamination risk this could pose to receptors. Based on this assessment, further intrusive investigations and a remedial strategy may be needed. If contamination issues require mitigation, a validation report may also be required.

- 15.8 The conditions recommended by the EPU are considered reasonable and necessary to ensure that future users of the proposed development would not be exposed to potential risks caused by contamination at the site, and subject to its imposition the application is thereby considered acceptable with regard to impacts on contaminated land.

## **16. OTHER MATTERS**

- 16.1 The Council's Environmental Health team have reviewed the proposal and raised no objection subject to the recommended condition of construction/conversion works within appropriate hours (to protect the amenity of the area/nearby residential units). As such, the proposal is considered appropriate in relation to environmental amenity concerns.
- 16.2 Not constituting a major application the proposed number of houses is below the threshold by which a financial contribution, by way of a Section 106 agreement, to compensate for the impact of the development, is required. It is therefore considered that there are no local finance considerations that are material to the application.
- 16.3 Two responses received from members of the public mentioned that they were not consulted on the application. The Council is required to notify those with an interest in "neighbouring land" of a planning application. Neighbouring land is defined as *"an area or plot of land which, or part of which, is conterminous with or within 20m of the boundary of the land for which the development is proposed"*. A notice was served on the owner(s), occupier and lessee of properties at neighbouring land. The notice included the following information:
- The date of the application.
  - The name of the applicant and name and address of any agent.
  - The Council reference number for the application.
  - A description of the development.
  - The address of the site or location of land.
  - A plan showing the site of the development in relation to neighbouring land which can be viewed on the link supplied on the letter.
- 16.4 The Council notified neighbours and neighbours had 21 days to make representations. As part of the neighbour notification period a site notice was erected on a lamppost in front of the application site.
- 16.5 The loss of a private view and the devaluation of a property are not material planning considerations.

## **17. PLANNING BALANCE AND CONCLUSION**

- 17.1 The Council cannot demonstrate a five-year supply of deliverable housing sites in a recently adopted plan or in any annual position statement, as is required by paragraph 75 of the NPPF. In turn, the test in the fourth bullet point of paragraph 11 applies, so that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Nevertheless, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of land instability is also a key aspect of sustainable development.
- 17.2 It is noted that there would be social and economic benefits in providing six new dwellings. However, the unacceptable risk from land instability of the application site and the surrounding area identified would be significant, and as a result the environmental role of sustainable development would not be achieved. The limited social and economic benefits that would accrue from the development would be significantly and demonstrably outweighed

by the harm to the land stability and the local environment. The proposals are therefore considered to be contrary to the provisions of the UDP and the NPPF.

- 17.3 The application is accompanied by insufficient information to demonstrate that the development would have an acceptable impact on land stability.
- 17.4 In reaching a conclusion a balanced assessment has been undertaken of the proposals including the associated economic and social benefits resulting from the proposals. The objections raised by third parties and technical consultees are persuasive, and confirm that there is no reasonable justification to permit the development which would be prejudicial to the local environmental quality and it is therefore not considered that the proposals pass the sustainability test laid out within the NPPF. Consequently, when assessed against the policies in the NPPF taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits.
- 17.5 Overall, the proposal is not considered to comply with the development plan and NPPF, for the reasons set out in the report. As such, it is recommended that planning permission is refused as the development is at risk from contributing to or being put at unacceptable risk from land instability issues. No up to date Slope analysis and site investigation has been carried out at the site to provide further information to allow an accurate assessment of the risks to the stability of the land within the site, and the risks posed by the existing slope just beyond the site boundary. As such it is not possible to ensure that the proposed development will not contribute to, or be at an unacceptable risk from, or be adversely affected by, unacceptable levels of land instability contrary to paragraphs 174 and 183 within section 15 of the National Planning Policy Framework.

## **RECOMMENDATION**

That planning permission should be refused for the following reason:

The development is at risk from contributing to or being put at unacceptable risk from land instability issues. No up to date slope analysis and site investigation has been carried out at the site to provide further information to allow an accurate assessment of the risks to the stability of the land within the site, and the risks posed by the existing slope just beyond the site boundary. As such it is not possible to ensure that the proposed development will not contribute to, or be at an unacceptable risk from, or be adversely affected by, unacceptable levels of land instability contrary to paragraphs 174 and 183 within section 15 of the National Planning Policy Framework.