

Minutes of a meeting of the Area Planning Panel (Shipley) held on Friday 23 September 2011 at the Bingley Arts Centre, Bingley

Commenced 1015
Adjourned 1310
Site Visits 1310 – 1535
Re-convened 1535
Adjourned 1610
Re-convened 1620
Concluded 1625

PRESENT – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Binney	Dredge	Cole
Ellis	Imdad Hussain	
	Sajawal Hussain	
	Shabir Hussain	

Apologies: Councillors McCabe and Smithies

Observers: Councillors Heseltine, Pennington and Shaw (Minute 19(a))

Councillor Shabir Hussain in the Chair

14. DISCLOSURES OF INTEREST

Councillors Ellis and Imdad Hussain disclosed a personal interest in the item relating to Land at Sty Lane, Micklethwaite, Bingley (Minute 19(a)) as they were members of the West Yorkshire Integrated Transport Authority (WYITA) and as the interest was not prejudicial they remained in the meeting.

Councillor Sajawal Hussain disclosed a personal interest in the item relating to Land at Sty Lane, Micklethwaite, Bingley (Minute 19(a)) as he had received medical treatment in the past from one of the objectors and as the interest was not prejudicial he remained in the meeting.

ACTION: City Solicitor



15. MINUTES

Resolved –

That the minutes of the meeting held on 15 June 2011 be signed as a correct record.

16. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

17. LEGAL ISSUES

The City Solicitor explained that correspondence had been received from the residents of 55 and 66 Oakwood Drive and Bridge Cottage. These letters stated that the redline application boundary included land in their ownership and that they had not been served with the statutory notice. The City Solicitor reported that correspondence from the Council's Highways Officer confirmed the extent of the adopted highway extended over the land in Oakwood Drive which was claimed to be in the third party ownership and that the access provision via Oakwood Drive was therefore capable of implementation without any third party land or consents.

In terms of Bridge Cottage, the City Solicitor confirmed that no part of the title of the property was required for any part of the development. The scale of the redline site plan might suggest that part of the title was impinged upon but the applicant and the planning officer had confirmed that this was not the case. The bridge design details in the full planning application, 11/03769/FUL, did not include any part of the title for Bridge Cottage.

The City Solicitor stated that there was no need for any development to take place on third party land or for any notice to be served and this should not prevent the determination of the application.

18. PUBLIC QUESTION

In accordance with the provision at Part 3B, Para 6 of the Council's Constitution the following public question was presented:

"Has the Council sought Counsel's opinion on the different legal interpretations of the UDP/RUDP process between those raised in Mr Wilbraham's letter and the interpretation contained in the officer's agenda report to the Planning Panel? If so will it make publicly available any such opinion before making a decision on the above planning application in Bingley?"

The Chair requested that the City Solicitor responded to the question, who confirmed that:

"The Council has not sought Counsel's opinion on this point. Policies H1 and H2 were not saved as they dealt with the phasing of the release of Phase 1 and Phase 2 housing sites. At the time the Council made its submission to the Secretary of State to save policies of the Replacement Unitary Development Plan in May 2008, policies H1 and H2 were largely redundant. However, policy H4 was and is saved. The result of this is that those sites allocated for housing and to which policy H4 relates, remained, and still remain, so allocated. The site at Sty Lane is included in those sites allocated for housing and

therefore remains so allocated. There is, therefore, no policy reason why this application should not be determined.”

19. **PLANNING APPLICATIONS AND ASSOCIATED MATTERS**

The Strategic Director, Regeneration and Culture presented **Document “I”**. Plans and photographs were displayed and/or tabled in respect of each application and representations summarised.

Decision following Site Visit

(a) Land at Sty Lane, Micklethwaite, Bingley

Bingley

An outline application for the construction of between 420 to 440 dwellings. Replacement vehicular and pedestrian swing bridge over the Leeds/Liverpool canal, provision of new accesses off Sty Lane and Micklethwaite Lane, emergency and limited access off Oakwood Drive, pedestrian and cycle access to Fairfax Road, off site highway improvements, laying out of public open space and landscaping - 11/01203/MAO.

The Strategic Director, Regeneration and Culture gave a presentation setting out the proposals and tabled plans detailing the layout. It was explained that the outline application meant that only means of access would be considered which consisted of a replacement swing bridge and the provision of new accesses.

Members were then informed of six amendments to the technical report as follows:

- Two further applications had been submitted, one proposing the demolition of the existing swing bridge along Micklethwaite Lane (11/03775/CAC) and the other to replace the existing swing bridge with a new vehicular/pedestrian swing bridge (11/03769/FUL), which would be determined by the Council in due course.
- A further petition of 5000 signatures had been received in respect of the earlier application (10/00961/MAO), which had now been appealed to the Secretary of State.
- The total number of objection letters received was 1339, not 2584. These figures included 24 representations not yet summarised in the representations received section. Additional comments raised included: no consideration or Transport Assessment of Micklethwaite Village carried out; Sty Lane is to be made one way given its narrow bends but Micklethwaite Village also has narrow roads; a lack of visibility and pavements; it is proposed to close the Canal for several months over the winter period to carry out construction works but over the last 2 winters there have been several occasions when Sty Lane and Carr Lane were impassable; there is no indication that emergency services have been consulted; the highway consultation response fails to cover Micklethwaite Village; the safety of residents has been ignored; if Sty Lane is made into a ‘no entry’ in an eastern direction the residents of Greenhill will lose their rights to access their homes from the valley floor – a 200 yard journey will turn into a 3 mile detour; GAG have undertaken an amenity survey to evidence local residents strength of opposition to this development; the ecological consultants have neglected to determine the social value of Sty Lane; overall, the local community places enormous importance to the site and values it very highly for its social value - 97% of survey respondents were against it; the adverse impact of the proposal upon the canal area is underestimated by the applicants; the development of the site for housing is not necessary to meet current housing requirements; the site is not readily accessed by public transport; design of the part-time signals proposed at Oakwood Drive/Lady

Lane is inherently flawed from a safety aspect; the upheaval caused by significant civil engineering works is inherently flawed; the comprehensive Transport Assessment assumes the new swing bridge will have an opening time of 3 minutes 30 seconds but there is no justification for this; Oakwood Drive will be an emergency access for the whole of the proposed development plus the whole of Micklethwaite Village, plus residents of Airedale Mills, Bridge Cottage and Laythorpe plus the new proposed development of 27 dwellings (not yet determined); no thought has been given to the two businesses that are in Airedale Mills, these have been in the same ownership for over 20 years; a risk assessment report shows that it is not safe to drive through Micklethwaite Village; and the above have trucks delivering and collecting each day, the proposed 'alternative routes' are totally unsuitable for such vehicles.

- British Waterways would take ownership of and responsibility for the maintenance of the bridge in the future and the contribution amount would be £921,336.07.
- The sum of £921,336.07 to be added to the Heads of Terms of the Section 106 Agreement and at page 55 of the report.
- An additional condition (44) to be added that requested the full details of the diversion routes to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any works.

The Strategic Director, Regeneration and Culture reported that during a MasterPlan exercise it had been identified that 420 to 440 dwellings could be accommodated on the site. With regards to the principle of the development, it was noted that the site was allocated for housing, however, the constraints in relation to the topography, listed buildings and Conservation areas had been acknowledged and therefore the density was limited. The design and landscape impacts had been looked at previously by the MasterPlan, but were not to be considered as part of this application. The impacts on heritage had been considered and a condition regarding the Bronze Age carved rock had been placed on the application. The Strategic Director, Regeneration and Culture confirmed that the means of access was acceptable and an emergency access would be provided via Oakwood Drive. A pedestrian fixed bridge would also be constructed. Natural England had indicated that they had no objections to the proposal and had requested conditions on any permission granted including one for the retention of the hedgerows as far as possible. It was noted that the proposal was subject to 44 conditions and a Section 106 and 278 Agreement, which included the provision of 30% affordable housing and contributions for education, recreation, sustainable transport and highways measures. The Strategic Director, Regeneration and Culture then recommended the application for approval subject to the conditions and the Section 106 and 278 Agreements as set out in the report.

In response to Members' queries, the Strategic Director, Regeneration and Culture confirmed that:

- The proposed fixed pedestrian bridge was not part of this application.
- It was acceptable to build on a Greenfield site.
- A mixture of vehicles delivered to Airedale Mills.
- Whilst the new bridge was being constructed alternative access would be available and this would not be any different to the current situation if the existing bridge was closed. Micklethwaite village was not satisfactory for HGV access but Greenhill Lane was suitable to be used by certain smaller HGVs.
- A further condition had also been proposed that full details of diversion routes during construction would have to be provided.
- Barriers would be placed on the emergency access which would only be opened at specific times. Emergency vehicles would be able to access the emergency route. It was not intended that the bridge would break down, but if the situation occurred

traffic lights would maintain the flow of traffic at the Oakwood Drive and Lady Lane junction.

- The responsibility for opening the emergency barriers would be subject to the management plans, however, it was envisaged that emergency highways officers would attend.
- There was a one hour response time at the moment, but this may not apply to this particular scheme.
- Traffic regulation orders (TRO) would be proposed if necessary to deal with parking and access issues. The TROs would be enforced through Area Committees and public scrutiny.
- The footbridge would be fully compliant with the Disability Discrimination Act (DDA), however, if certain minor aspects were not achievable full compliance was not strictly required.
- Traffic flow comparisons prior to and following the opening of the Bingley Relief Road had not been undertaken.
- Consideration of the traffic flow in and out of Bingley in respect of the Bingley Relief Road was not relevant for this application.
- The provision of a bus service to the site had been mentioned by the Inspector at the time of the UDP allocation, however, it had not been a requirement to adopt it as a policy. Discussions had been undertaken with the applicants and it had been decided that the installation of a footbridge would provide a shorter access route to Crossflatts Railway Station. The footbridge was sustainable and provided a long term benefit for the site and adjacent residents along Fairfax. The development of the site could be over a long period of time and the subsidy for a bus service would be time limited, therefore, the bus service could be withdrawn prior to the completion of the development.
- The footbridge gave access from the canal tow path to the development. It would also provide existing residents with access over a shorter route.
- The Police Architectural Liaison Officer would be involved in the future but had not been consulted at the present as the development had not been designed in detail.
- The footbridge and canal towpath would not be illuminated for biodiversity reasons, however, the adjacent roads were lit. The police would be consulted on the design and safety of the footbridge and vigorous tests would be undertaken in respect of the road and footbridge.
- The full and final design of the swing bridge had not been formulated as yet and it would be subject to a design audit.
- A full consultation process had been undertaken with the Council's Conservation Team and English Heritage in respect of the new bridge and no objections had been received. The current bridge was constructed in 1985 and was modern in design. A separate application that detailed the design of the new bridge would be submitted to a future meeting and the Council's Conservation Team were satisfied that every effort could be made to mitigate the impact.
- A listed building application was not required as the structures/arches on the opposite side of the tow path to the application site were not lime kilns, but were a form of storage from a later date.
- The bridge took an average 3.50 minutes to open with 5.30 minutes being the worst case. Queuing would occur, but the traffic would not emerge onto Keighley Road. The worst times were the morning and afternoon peaks between 8 and 9 am and 5.30 to 6.30 pm.
- The roads within the development would be considered in the Reserved Matters application. It would be expected that Sustainable Urban Drainage Systems (SUDS) would be included in the scheme. The Council's Drainage Section and Yorkshire Water had been consulted and had suggested that suitable conditions were placed on any planning permission granted.

- The Council did not have a legal duty to salt the roads, only to clear them of obstructions and salting this was subject to highway provision in the area.
- The access onto Sty Lane was subject to detailed design via a Section 278 Agreement. Its impact on the area was to be minimised.
- An Environmental Impact Assessment had been undertaken. This was a supplementary planning document and tested against sustainable objectives.
- The details of the proposed dwellings would be submitted at the Reserved Matters stage and the houses would have to be built to Code Level 3 in relation to renewable energy as per Building Regulations.
- Those trees within the Conservation Area would be protected by the Conservation Area status and those with a Tree Protection Order (TPO) would not be affected by the development. The application was outline only and the issue of trees would be dealt with at Reserved Matters.
- The application had been submitted with a comprehensive transport assessment. The new bridge would take as many vehicles as required and nationally accepted methods had been used to calculate the number of trips. It was acknowledged that there would be queues, though these would quickly disperse.
- The access and bridge would be safe and visibility would be improved.

The three local Ward Councillors were present at the meeting and made the following statements:

- The proposal would result in significant extra traffic in the area.
 - The figures provided were based upon 2003/5 and there had been an increase every year.
 - There would be a significant impact on the wider and local community.
 - There were problems in Bingley and Saltaire already.
 - The roads to be used were metal cart tracks.
 - Oakwood Drive would reach its capacity.
 - A similar swing bridge in Whitby had been inoperable for two weeks.
 - If the emergency services had to have keys, how would it be guaranteed that the access system would work?
 - How long would the swing bridge take to manoeuvre?
 - Residents would be marooned on the estate.
 - The trains operating in the area were already full.
 - Traffic was the main issue and had not been resolved.
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- It was an important piece of land.
 - The Bingley 5 Rise Lock was an asset to the town.
 - The proposal would have an impact upon the beauty of the canal and the wildlife in the area.
 - Bingley Grammar School was already over its capacity.
 - What would happen if more children moved in as all the schools were full?
 - Radon gas could build up under the site.
 - The swing bridge was insufficient.
 - Residents would not walk to the station, so where would they park?
 - Road safety would be an issue as Bingley would be jammed with cars.
 - Bingley could not cope with the current amount of traffic.
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- The access across the swing bridge was an issue.
 - Micklethwaite Lane was a narrow and dangerous road.
 - Vehicles had got stuck in the village in the past and the Panel should go and look at the village.

- If the emergency access was used it could become a permanent access.
- There were brownfield sites available and greenfield sites should not be dug up.
- Some of the fields were ploughed for food produce.
- The application should be rejected.

In response the Strategic Director, Regeneration and Culture confirmed that in relation to the presence of Radon gas, the Council's Building Regulations and Environmental Protection Teams had indicated that measures were not required.

Representatives of the Greenhill Action Group were at the meeting and raised the following concerns:

- The answers provided had not been satisfactory.
 - The new swing bridge was not part of the application.
 - No details had been provided for the pedestrian bridge.
 - There were no diversion routes.
 - Means of access could not be considered on this basis.
 - The swing bridge should be three times the size.
 - There would be problems in relation to the emergency access.
 - It was a historic environment with listed buildings.
 - It was a statutory duty to consider the appearance of the proposal.
 - The details of the swing bridge should be provided.
 - The application should be refused.
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- A traffic assessment on Micklethwaite village had not been undertaken.
 - No reference to traffic through Micklethwaite village had been made.
 - The roads were narrow and there were no pedestrian walkways in areas.
 - The proposals were unsafe.
 - There were risks to pedestrians crossing the bridge.
 - It was unsafe for cyclists on the bridge as cars passed.
 - There would be unacceptable delays and queues to cross the bridge.
 - The responses to questions were inadequate and issues had not been addressed.
 - It was not a sustainable site.
 - Insufficient information and details had been provided to make a decision.
 - The swing bridge was incapable of providing access for the scheme.
 - When the bridge was closed traffic would have to use Oakwood Drive.
 - The temporary access arrangements were unsuitable and inadequate.
 - That over 1000 residents and over 400 cars would access the site via the swing bridge.
 - There was no other such solution in Bradford or the rest of the Country.
 - The number of cars using the access could not be accommodated.
 - The application should be refused on traffic grounds.

A local resident was present and stated the following objections:

- Not all the bridge options had been documented.
- The replacement bridge would break down.
- That sheet piling would cause damage to Bridge Cottage and what measures would be taken?
- Would there be message signs if the bridge broke down?
- Would there be someone on call to open the emergency access?
- It could take 30 minutes for the Council to attend.
- Was the Council prepared to accept the consequences if someone died?

A representative of Micklethwaite Village Society was at the meeting and made the following comments:

- The transport assessment was biased, incomplete and ignored the northern half of the road network.
- There was no information or photographs regarding the northern edge of site.
- There had been a death on a road and no accident figures had been provided for the route in question.
- Traffic surveys had been submitted and traffic could increase by 100%.
- The Inspector had allocated the land as housing as he had thought that the Bingley Relief Road would resolve the traffic issues in the area.
- The amount of traffic had increased in the area.
- The application should be refused.

A representative of the Oakwood Group was present at the meeting and made the following points:

- Oakwood Drive was a busy road and was unsuitable for extra housing and access.
- It had been stated at the Public Inquiry that access could be achieved via alternative routes.
- A fixed bridge had been recommended, however, the applicant was refusing to build one.
- The traffic assessment was not satisfactory.
- The application should be refused.

A representative of the Crossflatts Village Society was at the meeting and made the following comments:

- After crossing the bridge traffic either parked in Crossflatts or travelled through it.
- Traffic would filter into The Drive which was very narrow.
- Canal Road was the only access point for many residents.
- Canal Road could not cope with additional traffic.
- The additional traffic would bring misery and problems to the residents of Crossflatts.
- Traffic and parking issues had been raised at the Neighbourhood Forum.
- There would be 2,000 additional traffic movements.
- Visitors to the site and waste disposal vehicles had not been considered.
- If the application was approved then other access points should be revisited.
- If the issues could not be resolved then the application should be refused.

A representative of the Bingley Civic Trust was present and stated the following:

- The Trust had written to the Council several times.
- There were only three roads which the site could be accessed by.
- The grit spreading vehicles could not access the top of Micklethwaite Lane.
- The application proposed a one way cul-de-sac accessed via a swing bridge.
- No other similar application had been granted in the country.

A local resident was present at the meeting and made the following points:

- The access would be closed for six months.
- The residents of Micklethwaite would be affected and there would be issues regarding emergency vehicle access.

- If there were any fatalities during this time was the Council prepared to accept the consequences?

In response to some of the comments made the Strategic Director, Regeneration and Culture confirmed that:

- The swing bridge did not necessarily have to be three times larger.
- The developers had not refused to construct a fixed bridge and all possible options had been looked at.
- Third parties had been involved in the discussions. British Waterways had been consulted and were not under any pressure to accept a swing bridge.
- An assessment of the noise and vibration from the piling had been undertaken. An Environmental Statement had been submitted and a condition had been placed on the application in relation to mitigation measures.

In response to further queries from Members, the Strategic Director, Regeneration and Culture reported that:

- The Emergency Services would be provided with a standard national key which would allow them access and they would be informed of any issues regarding the access route.
- During the discussions with British Waterways it had been suggested that a swing footbridge be constructed, however, they had requested a high level permanent bridge.

The applicant's agent was present at the meeting and made the following statements:

- The officer's report effectively dealt with the issues and presented a positive recommendation.
- The Planning Department had requested many conditions and that the application be subject to a Section 106 Agreement.
- The Section 106 Agreement had substantial benefits, including £7 million for affordable housing, £1.3 million for education facilities and £183,000 towards targeted sports provision.
- The application exceeded the sustainable requirements to Code 3, which was beyond the legislative standard.
- The application was in accordance with the Council's Replacement Unitary Development Plan (RUDP).
- The Government approach was to accept without delay.
- It addressed the recognised national housing need.
- The proposal retained the allocated status and had been properly considered.
- The proposal was a good quality development.

A representative of the applicant's architects was present and made the following points:

- The proposal was the third scheme to be submitted.
- The proposal was a fresh approach and was more landscape led.
- The Council's landscape architects had been closely consulted.
- The development was a town and landscape composition.
- That fourteen different elements had been identified and formed parameters for the plans.
- The application represented the best scheme to date for an allocated housing site.
- The scheme had been submitted to community consultation.
- The woodland would be used as a backdrop for the development.

- The canal site treatment was appropriate.
- The landscape features had been retained.

A representative of the applicant's consulting engineers was at the meeting and stated that:

- A Transport Scoping Report had been approved in autumn 2007.
- The latest assessment was based upon 440 units.
- Extensive information had been submitted in support of the proposals.
- Trip rates across the swing bridge had been agreed with Council engineers.
- Surveys had been undertaken in relation to the bridge opening times.
- The assessment of the impact of the traffic had been based upon the average and worst case scenarios.
- In 2016 the worst case scenario would be that the traffic queue would extend onto Keighley Road.
- The swing bridge had been designed with British Waterways and a width of 4.8 metres had been agreed.
- It had now been requested that the width be increased to 5.5 metres, however, 4.8 metres would allow two cars to cross the bridge safely.
- The proposed swing bridge would be a significant improvement allowing two way traffic and pedestrians to cross.
- Heavy Goods Vehicles were not an issue.
- The new bridge would provide a safe environment for road users.
- The Safety Audit had been completed in accordance with National guidance documents.
- If the swing bridge was closed then emergency access would be provided via Oakwood Drive.
- Commuted sums had been agreed to provide warning signs.
- The emergency access provided a better route for the residents of Micklethwaite village.
- Improvements would be made to Oakwood Drive and Lady Lane.
- It was a sustainable site and allocated as housing in the RUDP.
- The site had been the subject of a detailed Public Inquiry.
- Substantial funding had been allocated for the pedestrian bridge and improvements to the bus stops.
- The scheme would provide significant benefits to the wider community.
- Off-site highways improvements had been proposed which included a section of Sty Lane becoming one way.
- The needs of pedestrians, cyclists and public transport users had been considered in detail.

In response to a Member's concerns the Strategic Director, Regeneration and Culture reiterated that the provision of a bus service to the site had been carefully balanced against the benefits of a footbridge. The development would be phased and the introduction of a bus service would be time limited. The footbridge would be a permanent sustainable solution. He stated that he hoped that Metro would view the site as viable and provide a bus service.

During the discussion Members expressed their concern in relation to the unsuitable access; the emergency access provision; highways safety issues; and the inadequate swing bridge. The need for housing in the District was acknowledged, however, Members indicated that due consideration should be given to other sites.

Resolved –

That the application be refused on the following grounds:

- 1. The proposed development would involve the use of a replacement swing bridge over the Leeds and Liverpool Canal as the principle means of vehicular access to the site. It is considered that as such this type of bridge would be inadequate and impractical as a means of vehicular access to the site, leading to conditions prejudicial to highway safety and contrary to Policies TM2 and TM19A of the Council's Replacement Unitary Development Plan.**
- 2. That the proposed development would involve the use of an emergency access route to and from the site using Oakwood Drive which is considered to comprise an inadequate road layout. It is considered that the use of this route is unsatisfactory and therefore the proposal would be prejudicial to highway safety and contrary to Policies TM2 and TM19A of the Council's Replacement Unitary Development Plan.**

ACTION: Strategic Director, Regeneration and Culture

(Note: In accordance with Paragraph 25.6 of Part 3A of the Constitution Councillor Cole required that his vote in favour of the above application be recorded.)

Chair

Note: These minutes are subject to approval as a correct record at the next meeting of the Panel.

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THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER