

Report of the Strategic Director of Regeneration and Culture to the meeting of the Area Planning Panel (SHIPLEY) to be held on 21 March 2012

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Summary Statement

Miscellaneous Items

Airedale House, Micklethwaite Lane, Bingley – 11/01491/MAF [Approve]

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Portfolio:
Environment and Culture

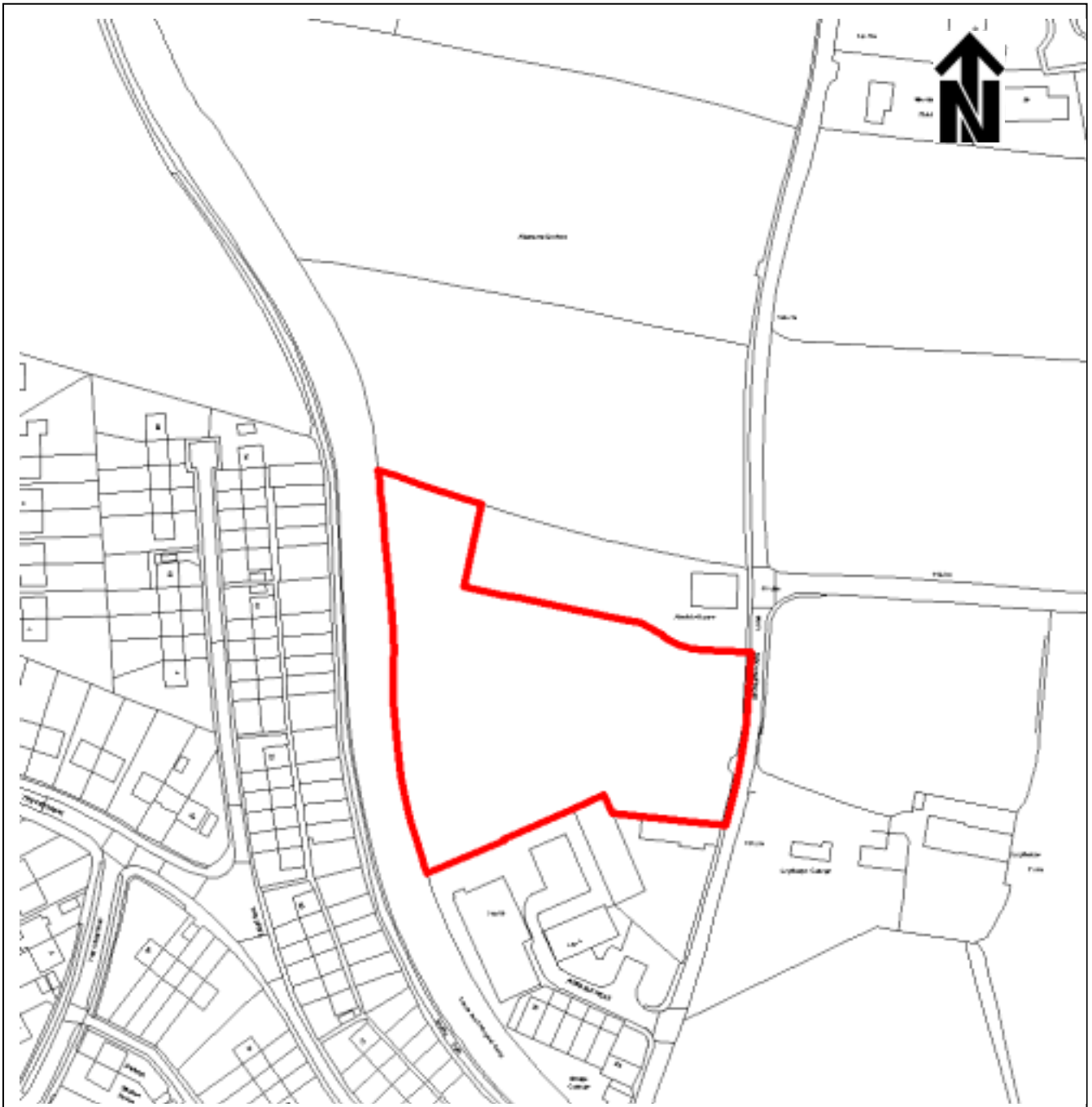
Improvement Committee Area:
Regeneration and Economy



Area Planning Panel (Shipley)

11/01491/MAF

21 March 2012



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LOCATION:

**Land South Of Airedale House
Micklethwaite Lane Bingley**

21 March 2012

Item Number:

Ward: BINGLEY

Recommendation:

TO GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A S106 LEGAL AGREEMENT

Application Number:

11/01491/MAF

Type of Application/Proposal and Address:

A full application for the construction of 27 dwellings with associated highways, parking and landscaping at Land South of Airedale House, Micklethwaite Lane, Bingley

Applicant:

Chartford Homes/Mrs. Angela Duggan

Agent:

Mr Alistair Flatman – ID Planning

Background:

This application was deferred by Members of the Panel on 18 January 2012 on the grounds that the Panel may be minded to approve the development upon submission of satisfactory and comprehensive financial information which would permit the Heads of Terms of the Section 106 Agreement contributions to be assessed; and that condition 10 be amended to ensure that a full sustainable urban drainage system forms part of the scheme. This early part of the report will deal with the issues of deferment and how these issues have been, or can be appropriately, addressed. The original report follows on from the discussion of the actions and starts with the paragraph noted site description. It should be noted that the original report has also been updated in certain areas e.g. number of representations received etc, comments on letters of representation, history of development on the adjoining site.

Actions to resolve which arose at the Panel of 18 January 2012.

A. Additional financial information - As requested by Members, attached as part of the exempt report is an additional independent comprehensive marketing report from Savills. The report essentially provides a professional opinion of the gross development valued of the proposed scheme.

Officers from the Councils economic development service have assessed the additional information and report the following details/information:

- This report considers the financial availability of the above scheme following new information provided by the applicant on end values.
- The original appraisal was undertaken in June 2011 and this was assessed by officers in the economic development service. The end sale prices were deemed lower than the market evidence suggested and this was communicated to planning officers who provided a recommendation for panel.

- Following the deferral of a decision at the planning panel to obtain further information the applicants instructed Savills to undertake an updated appraisal of the current housing market in Bingley and provide a revised assessment of potential end values.
- The report identifies a flat housing market with no immediate signs of recovery. Their report also contains substantial analysis of recent sales to arrive at suggested end values.
- The total income expected from the scheme, which incorporates 4 affordable units, is within a range of £3,941,500 to £4,143,500. No updated development costs have been provided, but on the previous estimate of £3.9m it can be seen the profit margins are low.
- In the opinion of officers from the economic development service the values reflect the current situation and there is no expectation that these values will increase dramatically over the course of the development. To cover the situation that values do increase the Council should consider an overage agreement.
- Panel made comment that overage agreements are not the preferred method of covering potential increases in end values and are difficult to manage, but in a situation where end values are so low resulting in tight profit margins and a district needing housing flexibility must be incorporated in agreements to encourage development.

B. Suggested condition 10

Members requested that condition 10 regarding the provision of both foul and surface water drainage works was redrafted in order to ensure that full sustainable urban drainage measures (SUDS) were provided and implemented at the site.

The application details show that SUDS measures can and are to be provided on the proposed site. As such condition 10 (detailed at the end of this report) has been redrafted to ensure that the required details/implementation of these measures is carried out.

Site Description:

A 0.75 hectare (1.8 acre) Greenfield site located within the Aire Valley to the north of Bingley, the south of Micklethwaite Village and to the north and east of Crossflatts. Within the Replacement Unitary Development Plan: Proposals for the Shipley Constituency the site was previously identified as part of a phase 2 housing site.

The site lies within the Leeds & Liverpool Conservation Area with part of it abutting the Site of Ecological/Geological Importance (SEGI) which is formed by the Canal. The site is also located within a bat alert zone. Laythorpe Farm, Micklethwaite, a grade II listed building lies on the other side of Micklethwaite Lane, beyond the eastern edge of the site and a cluster of key unlisted buildings – namely Airedale House, Bridge Cottage and Airedale Mills - are located to the south of the application site.

The site itself slopes down from Micklethwaite Lane to the Leeds & Liverpool Canal. There is no built development evident on the site and essentially it comprises grassland located between the built form to the south and Airedale House and its curtilage to the north. To the west/south west of the site lies the Leeds & Liverpool Canal, a SEGI, which effectively

separates the site from existing development in Crossflatts. This western boundary of the site abuts the Canal along the northern part of this edge.

The eastern boundary of the site abuts Micklethwaite Lane just north of where it passes over the existing single lane canal bridge. There is no formal means of access to the site at present. Micklethwaite Lane itself leads beyond the site into Micklethwaite Village, a small village that originally developed as an agricultural farming hamlet, which itself lies within a conservation area which covers the historic core of the village.

Relevant Site History:

Planning application 10/02486/MAF for the construction of 14 dwellings was withdrawn from determination in 2010.

Recent History for the adjoining development site at Sty/Micklethwaite Lane:

A. Outline planning application 11/01203/MAO was refused by Members at the Shipley Area Planning Panel 23 September 2011 for the construction of 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. The application was refused for the following reasons:-

- 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 Replacement Unitary Development Plan.
- 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 Replacement Unitary Development Plan.

A Public Inquiry has been held into this application which started on the 21st February 2012 and ended on 6th March 2012. A decision is expected from the Secretary of State in early summer.

B. Planning application 11/03775/CAC – Conservation Area Consent for the demolition of the existing vehicular swing bridge over Leeds-Liverpool Canal and ancillary works is located elsewhere on this agenda. This application has been appealed to the Secretary of State and forms part of the public inquiry identified under paragraph A above. Members had however advised the Secretary of State that if they were in a position to determine the application the decision would have been to refuse the application for the following reasons:-

1. 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 Replacement Unitary Development Plan.

2. 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 Replacement Unitary Development Plan.

3. It is considered that the replacement bridge would not make a positive contribution to the character of the Leeds-Liverpool Conservation Area by reason of its design, massing and re-alignment; as such, the proposed bridge would fail to enhance conservation area and is considered to be contrary to policies BH7, BH20, UR3 and D1 of the Replacement Unitary Development Plan.

4. It is considered that the alignment of the new swing bridge will erode the character of an existing open area to the detriment of the character of the Leeds and Liverpool Conservation Area, the adjacent listed and unlisted buildings and local wildlife; as such the proposal is considered to be contrary to policies BH7, BH10 and NE10 of the Replacement unitary Development Plan.

5. The proposed diversion of the existing traffic route along Micklethwaite Road would be unacceptable in that it would create highway safety issues for vehicles associated with both Airedale Mills and the adjacent houses and premises: as such the proposal is considered to be contrary to policies TM2 and TM19A of the Replacement Unitary Development Plan.

C. Planning application 11/03769/FUL - Replacement vehicular and pedestrian swing bridge over Leeds-Liverpool Canal and ancillary works is also located elsewhere on this agenda. This application has been appealed to the Secretary of State and forms part of the public inquiry identified under paragraph A above. Members had however advised the Secretary of State that if they were in a position to determine the application the decision would have been to refuse the application for the following reason:-

The existing bridge is of historic interest in terms of its alignment, character and narrowness and as such, it is considered that its demolition would unduly affect the character of the Conservation Area and would be contrary to policy BH9 of the Replacement Unitary Development Plan.

Replacement Unitary Development Plan (RUDP):

Allocation

(i) Within the Proposals for the Shipley Constituency of the Replacement Unitary Development Plan the site was identified as being part an allocated housing site under policies H2 and H4 (reference S/H2.10).

(ii) The Planning and Compulsory Purchase Act (the Act) reformed the English planning system in September 2004. The Replacement Unitary Development Plan (RUDP) for Bradford was replaced by a range of documents that will form the Bradford District Local Development Framework (LDF). Under the transitional arrangements relating to the Act, unless expressly replaced by a 'new ' policy, 'old' policies (adopted local plan, unitary development plan and structure plan policies) are saved for 3 years from which is the later of:

- (i) the date of commencement of Section 38 of the Planning & Compulsory Purchase Act 2004 on 28 September 2004 or
- (ii) the date the plan was adopted or approved.*

(iii) The Replacement Unitary Development Plan (RUDP) for Bradford was adopted on 18th October 2005. Under the second provision in the above paragraph (ii), the policies of the RUDP were automatically saved until October 2008 without recourse to the Secretary of State. However, the Council was required to submit a formal request to the Secretary of State 6 months before the expiration of the relevant 3 year period to save policies further.

(iv) The Department for Communities and Local Government (DCLG) published a protocol for the saving of policies in August 2006). This set out broad principles to follow in making a request and the criteria against which any request would be assessed by the relevant government office. In January 2007, the DCLG published a template for making submissions to the Secretary of State based on the criteria in the protocol.

(v) The Council needed to demonstrate that the policies they wished to be saved reflected the principles of local development frameworks; also the national policy in place at that time. Officers in consultation with the Government Office Yorkshire and the Humber (GOYH) completed the above template using the DCLG guidance.

(vi) A key element of the DCLG guidance made clear the need for particular regard to be paid to policies that supported housing, including unimplemented site allocations. This was an explicit consideration of an April 2008 report to the Executive committee of the Council. This set out the reason for the non-saving of Policies of H1 and H2 which were seen principally as phasing policies and the conclusion that the unimplemented housing allocations would continue to be protected under Policy H4 as proposed to be saved.

(vii) The Council resolved to submit for saving the policies set out into the report for consideration by the Secretary of State. To this end a formal application was made to the Secretary of State via GOYH on 21 May 2008.

(viii) A direction was issued by the Secretary of State on 30 September 2008 which listed those policies to be saved. Those policies not listed in the Direction would expire on 31 October 2008. In line with the Council submission policy H4 was saved while H1 and H2 were left to expire.

(ix) In relation to an ongoing development proposal on a site allocated as a phase 2 housing site, a submission was received from a local resident which challenged the legal basis for the saving of unimplemented housing allocations in the RUDP. The basis of the submission was that Policies H1 and H2 allocated the sites as well as dealing with their phasing, whereas Policy H4 did not allocate sites but rather protected them. The Council subsequently obtained a Counsels opinion which concurred with this view.

(x) On 21st November 2011 the Council resolved the following (as it affects this development site):-

- That it was the Council's intention that the unimplemented Housing sites should be protected to meet the district's housing needs.
- That the extensive and robust statutory process through which the sites allocated under policies H1 and H2 in the RUDP were subjected to and as such all the

unimplemented Housing Site previously allocated under policies H1 and H2 should be accorded significant weight when considering their use for residential development .

- That any planning applications which related to an unimplemented Housing site and which have been considered but have not had a decision notice issued be reconsidered by Regulatory and Appeals in the context of the above new legal considerations.

Essentially the Council resolved the above position in order to provide certainty to decision makers, developers and communities.

(xi) Despite the fact that the site is not now an allocated housing site on the current development plan (RUDP) Members are advised that it is appropriate to afford considerable weight to the fact that the site was previously allocated as a housing site (Phase II) and that the allocation was only removed by virtue of a genuine mistake as outlined in detail above. Members are also advised that the site has been tested in terms of its appropriateness as a housing site by the preparation of the Replacement Unitary Development Plan and in the case of this site (along with the main part of the allocation) was specifically looked at by the Inspector through the plan making Public Inquiry process.

(xii) Matters considered at that stage were (i) appropriateness of the site as a housing site taking into consideration matters of sustainability and also (ii) to consider this site in preference to other sites that were not ultimately allocated as a housing site in the RUDP as they were considered to be less appropriate. The Council have accepted that it is appropriate that sites formally allocated as Phase II Housing Sites should be “accorded significant weight when considering their use for residential development”. These facts should be taken into consideration in relation to this application.

(xiii) It is also necessary to consider the Council’s current position concerning the amount of land currently available for housing in the district to meet current housing demand. It has also already been established through a case determined on appeal (North Dene Avenue, Keighley - 10/06230/MAR) that the Council is unable to demonstrate that there is a 5 year supply of housing land available within the district (note at the time this actually included sites previously considered by the Council to be allocated on the RUDP and which are no longer allocated). The Secretary of State will require the Council to demonstrate that the Council has a 5 year supply of housing land at all times and will consider appeals on such a basis.

Proposals and Policies

UDP1 – Promoting sustainable patterns of development

UDP2 – Restraining development

UDP3 – Quality of built and natural environment

UDP7 – Reducing the need to travel

UR2 – Promoting sustainable development

UR3 – The local impact of development

UR6 - Planning Obligations and conditions

H4 – Protecting Allocated Housing Sites

H7 – Housing Density – Expectation

H8 – Housing Density – Efficient Use of Land

H9 – Affordable Housing

TM2 – Impact of traffic and its mitigation

TM8 - New Pedestrian and cycle Links

TM10 – The national and Local Cycle Network
TM12 – Parking standards for residential developments
TM19A – Traffic management and road safety
D1 – General design considerations
D2 – Energy Efficiency and Sustainable Design
D4 – Community safety
D5 - Landscaping
D14 – External Lighting
BH4A – Setting of Listed Buildings
BH7 - New Developments in Conservation Areas
BH10 – Open Space within or adjacent to Conservation Areas
BH11 – Space about Buildings in Conservation Areas
BH20 – The Leeds and Liverpool Canal
OS5 – Provision of recreation open space and playing fields in new development
NE3 – Landscape Character Areas
NE3A – Landscape Character Areas
NE4- Trees and Woodlands
NE5 - Retention of Trees on Development Sites
NE6 - Protection of Trees during development
NE9 - Other sites of Landscape or wildlife interest
NE10 - Protection of Natural features and Species
NE11 - Ecological Appraisals
NE13 – Wildlife Corridor
NR16 - Surface Water Run Off and sustainable Drainage Systems
NR17A – Water Courses and Water bodies

BMDC – Supplementary Planning Guidance

Landscape character
Planning Obligations

Airedale Corridors: A Master plan & Strategy for Airedale
The Leeds and Liverpool Conservation Area Appraisal

***The Yorkshire and Humber Plan - Regional Spatial Strategy (RSS) to 2026:
Policies***

YH1 – Overall Approach and Key Spatial Priorities
YH4 – Regional Cities and Sub-Regional Cities and Towns
YH6 – Local Service Centres and Rural and Coastal Areas
YH7 – Location of Development
YH8 – Green Infrastructure
LCR1 –Leeds City Region
H1 – Provision and Distribution of Housing
H2 – Managing and Stepping up the Supply and Delivery of housing
H4 – The Provision of Affordable housing
H5 – Housing Mix
ENV1 – Development and Flood Risk
ENV5 - Energy
ENV8 – Biodiversity
ENV9 – Historic Environment
ENV10 - Landscape

Planning Policy Statements/Guidance:

PPS1 - Delivering sustainable development; the planning system: general principals (supplement to PPS1)

PPS3 – Housing

PPS4 – Planning for Sustainable Economic Growth

PPS5 – Planning for the Historic Environment

PPS9 – Biodiversity and Geological Conservation

PPS12 – Local Spatial Planning

PPG13 – Transport

PPG17 – Planning for Open Space, Sport and Recreation

PPS23 – Planning and Pollution Control

PPG24 – Planning and Noise

PPS25 – Development and Flood Risk

The Draft National Planning Policy Framework (DNPPF):

The Draft National Planning Policy Framework is now a material planning consideration on any development proposal. The Framework highlights the fact that the purpose of the planning system is to contribute to the achievement of sustainable development and that there is a presumption in favour of sustainable development which can deliver:-

- i) Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;
- ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

As such the Draft Framework suggests local planning authorities should approve development proposals that accord with statutory plans without delay.

Parish Council:

Not applicable

Publicity and Number of Representations:

Site notices were displayed at the site, advertisements were placed in the local paper and individual neighbourhood notifications were also carried out with the statutory period of the expiry date for comments being 20th May 2011. 55 letters of representation have been received.

Summary of Representations Received:

- Micklethwaite Lane is already narrow and congested and regulatory closed to canal boats
- Chaos and extreme danger to drivers and pedestrians would result
- Homes should not be built in a conservation area
- The Crossflatts and Bingley area are unable to accommodate any more children or adults at the local schools or doctors
- The local trains to Lees are already full to capacity
- The dimensions of the new sing bridge are totally inadequate

- Maintenance of the bridge will cause problems to all residents
- The infrastructure to the area is inadequate
- This is a heritage area of Bingley 5 rise locks and both heritage and tourism would suffer
- The voice of the local population has been ignored over many years – do not want any further development an area that is already overloaded
- There is no justification now that the Sty Lane proposals have been rejected.
- A swing bridge causes access difficulties
- Works would have an impact on the conservation area
- Adverse affect on wildlife
- Affect the character of a conservation area
- Inadequate drainage
- Loss of privacy
- Loss of residential amenity
- Noise nuisance, fumes, dirt and disturbance
- Overshadowing
- Pollution of the watercourse
- Adverse impacts on traffic and pedestrian safety
- Pollution of watercourse
- Poor unsuitable vehicular access
- Precedent set for development
- The existing swing bridge is unable to cop with any more traffic
- Inappropriate in Special landscape Area
- Access to the site is totally inadequate, the road is narrow and there is tight junction with Sty lane
- Wildlife in the area would suffer as would th4 whole environment
- Additional strain will be caused on the present amenities
- Pedestrian safety will be compromised as the pavements are narrow or non-existent on Micklethwaite land and Sty Lane.
- The houses lie almost entirely within the boundaries of a conservation area and the application should be refused because it will cause irreversible harm.
- The proposals contravenes national Planning Policy Statements (PPS5 and the Councils own policies BH10 and BH20
- Legal opinion has revealed that the council has failed to save relevant housing policies in the RUDP.
- The current usage of the way to/from the bridge has resulted in a volume of traffic which has now gone beyond what might be termed “saturation point”. Without a thorough risk assessment having been carried out any granting of a planning permission has to be labelled as negligent
- The proposal would also ruin the context of the listed buildings at Laythorpe Farm
- No increase in traffic should be allowed – risk to life and limb crossing the bridge.
- The area already has empty properties and no further properties are required
- This canal conservation zone should be protected
- Sometimes vehicles travelling down Micklethwaite Lane have to drive onto the footpath
- Objection in principle to the allocation of the site which appears to be nothing more than a simple arc-ing sweep of a pen to encompass a broad rounding off of proposed urbanisation.
- The weakness of the allocation has been provided as over an 18-20 year period there has been an inability of planning applications to solve the problem of providing a permanent and satisfactory form of increased vehicular access across the Canal.

- The site falls wholly within the Canal conservation area but the proposals affect the character of this area.
- Car parking is unscreened and its visual impact will be damaging to the conservation area. The residential use has no historical functional connection or relevant to the character of the canal;
- The proposed development could be anywhere and offer no positive links or interpretation of the Canal
- In sufficient car parking proposed
- A 45 m length of dry stone boundary walling to Micklethwaite Lane is shown to be removed for visibility spays and footpath
- An unnecessary urbanisation and loss of an open natural grassland SEGI site that provides important conservation views and an important biodiversity habitat.
- No proper consideration of the scheme in relation to the former mill owners' house in terms of visual impact, boundary treatment, impact on increased traffic movements over the swing bridge or at the accident spot at the corner of Micklethwaite and Sty Lane.
- 27 houses are too many to be in keeping with the Conservation Area
- The proposed housing by no means enhances this historic and attractive area
- Inadequate parking
- Poor visibility
- In icy weather residents of this development may try to park below Micklethwaite Bridge preventing local residents from having a safe space near their properties.

Consultations:

Local Development Framework Policy Section – In relation to an ongoing development proposal on a site allocated as a phase 2 housing site, a submission was received from a local resident which challenged the legal basis for the saving of unimplemented housing allocations in the RUDP. The basis of the submission was that Policies H1 and H2 allocated the sites as well as dealing with their phasing, whereas Policy H4 did not allocate sites but rather protected them.

The Council has subsequently sought Counsels advice as to the effect of saving of policy H4 of the Council's RUDP in the absence of saving policies H1 and H2. Counsels advice concurs with both the conclusion and the reasons set out in submission from the local resident that the lapsing of Policies H1 and H2 means that the allocations have also lapsed and are no longer allocated as part of the statutory development plan.

In response to this advice the decision of the council's Executive held on Monday 21 November 2011 was:

- That the Executive reaffirm that it was the Council's intention that the unimplemented Housing sites should be protected to meet the district's housing needs.
- That the Executive notes the extensive and robust statutory process through which the sites allocated under policies H1 and H2 in the RUDP were subjected to and as such all the unimplemented Housing Site previously allocated under policies H1 and H2 should be accorded significant weight when considering their use for residential development

Conclusion - the proposal is on land which was part of an unimplemented housing site previously allocated as a Phase 2 Housing Site in the RUDP 2005 (S/H2.10 STY LANE, MICKLETHWAITE). The proposed residential land use is acceptable in principle subject to other relevant policies being met.

Heritage and Conservation Section – This proposal has been subject to significant input during design development. The proposals reflect this input with a good tight frontage and site layout, but a more respectful relationship to the canal with a broad habitat buffer and buildings of a more contemporary industrial character addressing this aspect.

The fenestration of the plots fronting Micklethwaite Lane displays some variety with a blend of lean-to and pitched porches. The applicant has demonstrated use of appropriate detailing at eaves level, in window set-back and construction, although the chimney stacks could be a little diminutive in relation to the buildings. Sample materials and panels of masonry will require approval.

General landscape treatment and boundaries appear complementary. Surface treatments now specified and are considered appropriate.

Being mindful of the allocation for housing and the conservation area designation, together with views and wider characteristics identified in the assessment, the proposals are considered to be a good balance. The overall character of the conservation area will be maintained and policies BH7, BH20 and D1 are satisfied.

Design Enabler – In terms of Building for Life the application scores 15.5 out of a possible 20 which is an excellent score and which reflects the thoughtfulness that has been put into this application.

Highways (Development Control) Section – There is no objection in principle to the development on this site. The applicant has now been amended to ensure that the footways from Micklethwaite Lane enter the site and that 600 mm margins then continue around the full perimeter of the shared surface road.

Parking details have been amended to become closer to the dwelling they serve and the appropriate amount of visitor spaces is now provided. The footpath along Micklethwaite has also now been revised and widened to 4.1m in width.

British Waterways – Welcome the revised scheme which has removed the location of gardens up to the edge of the canal and further set back the residential properties. The Green Reserve area will provide a visual barrier to the development when viewed from the canal and lessen its impact. Suggest that this area is maintained as part of the management plan for the development and a suitable worded condition attached to ensure the area is maintained in order to preserve the appearance of the canal corridor.

Yorkshire Water – no objections in principle subject to conditions attached to any permission granted

Environmental Protection (Contamination) – The report notes that the site has previously been undeveloped farmland and that there was potential for areas of the site to have been infilled. No evidence of infilling has been identified in the site investigation and therefore no gas monitoring has been required. Whilst there is currently no evidence of other infilling or contamination material on the site, there is potential for this to be revealed during site preparation and ground works therefore conditions are recommended on any permission granted.

The site is within an area of Intermediate Radon Probability as between 1 and 3% of homes may be above the Action Level. However, Building Control regulations do not indicate that radon protective measures are necessary where the percentage of homes which may be affected is less than 3%.

Environment Agency – This application falls outside the scope for comments.

Drainage Section – the site must be investigated for its potential for the use of sustainable drainage techniques in disposing of surface water from the development. Suggest conditions are attached to any permission granted regarding the surface water discharge to watercourse and disposal of foul and surface water drainage.

Landscaping Section - The landscape buffer to the canal frontage is a welcome feature. The soft landscape focal area is also welcome. All landscape features outside of private residential property should be managed holistically as one landscape component.

Sports and Leisure Section – request a contribution of £19,196 to be used towards the provision or enhancement of recreation facilities in the vicinity of the development.

Education Services - We have assessed the situation in this area and can advise that we would need to request a contribution towards both primary and secondary educational provision as all schools serving this area are now full.

Primary provision:

2 children x 7 year groups x 27/100 x £11,648 = £44,029

Secondary calculation:

2 children x 6 year groups x 27/100 x £12,688 = £41,109

Total contribution = £85,138

Housing Development and Enabling Section - The affordable housing requirement is that 30% of the net developable floor area of the full development be made available for a mix of 2- and 3-bed houses to be sold to a Registered Provider to be nominated by the Council at a discount of 35% on open market value. The 2-bed houses should ideally have floor areas of 70-75 sq. metres, whilst the 3-bed houses have floor areas in the range 80-85 sq. metres.

Tree Section – some of the plots are close to various trees on the site. The principle of the soft landscape strategy is acceptable in terms of trees however a detailed scheme with stock sizes and management of such needs to be submitted and agreed. It is essential that the green reserve is in one ownership and managed by one body. Suggest conditions to be attached to any permission granted.

Metro – Supports the provision of residential metro cards for this application. Should the Council consider that metro cards should be secured this should be done way of a S106 legal agreement (with the total liability being 14 x £673.20 = £9,424.80).

West Yorkshire Archaeology – There are no apparent significant archaeological implications attached to the proposed development.

Summary of Main Issues:

1. Principle of development
2. Sustainability
3. Density
4. Design/landscape/Heritage impacts
5. Impacts on the amenities of the nearby properties
6. Other impacts: - Biodiversity/ecology impacts, contamination
7. Highway Safety
8. Use of planning conditions/S106 & 278 legal agreements
9. Comments on representations made
10. Community Safety

Appraisal:

1. Full permission is sought for the construction of 27 dwellings comprising a mixture of 2, 3 and 4 bedroomed houses on this 0.75 hectare site. The development is proposed in several short terraces, two of which front Micklethwaite Lane, two of which front onto a green reserve which fronts the Leeds-Liverpool Canal whilst the remaining two front onto the spine road which leads down from Micklethwaite Lane.

2. Access is via a spine road which leads from Micklethwaite Lane. Alterations to Micklethwaite Lane include ensuring it is widening to a minimum width of 4.1m along the frontage of the site. In front of the two short terraces which front onto Micklethwaite Lane a 0.85m high stone boundary wall with a cropped stone coping is proposed. In total 52 parking spaces are proposed (47 are private spaces and there are 5 visitor spaces).

3. A green reserve is proposed which varies from between 10 metres to 17 metres in depth and leads from the back edge from the Leeds and Liverpool Canal bank to the front garden of plots 09-20. A focal landscaped area (with feature planting is also proposed at the end of the spine road in front of plots 13-16.

4. The proposed dwellings are two stories in scale and comprise

(i) a mixture of traditional cottages built in natural pitched faced stone, with natural stone heads and cills, sliding sash windows, blue/black roofing slate roof and back aluminium rainwater goods, and;

(ii) and properties whose appearance reflect industrial heritage of this canal location with natural pitched faced stone to the rear and gable elevations, natural ashlar stone walling to the front elevation, powder coated aluminium window frames, natural blue/black roofing slates, powder coated balconies and framework and black aluminium rainwater goods.

Principle

5. In relation to an ongoing development proposal on a site allocated as a phase 2 housing site, a submission was received from a local resident which challenged the legal basis for the saving of unimplemented housing allocations in the RUDP. The basis of the submission was that Policies H1 and H2 allocated the sites as well as dealing with their phasing, whereas Policy H4 did not allocate sites but rather protected them.

6. The Council has subsequently sought Counsels advice as to the effect of saving of policy H4 of the Council's RUDP in the absence of saving policies H1 and H2. Counsels advice concurs with both the conclusion and the reasons set out in submission from the local resident that the lapsing of Policies H1 and H2 means that the allocations have also lapsed and are no longer allocated as part of the statutory development plan.

7. In response to this advice, the decision of the council's Executive held on Monday 21 November 2011 was:

- That the Executive reaffirm that it was the Council's intention that the unimplemented Housing sites should be protected to meet the district's housing needs.
- That the Executive notes the extensive and robust statutory process through which the sites allocated under policies H1 and H2 in the RUDP were subjected to and as such all the unimplemented Housing Site previously allocated under policies H1 and H2 should be accorded significant weight when considering their use for residential development

8. The proposal is on land which was part of an unimplemented housing site previously allocated as a Phase 2 Housing Site in the Replacement Unitary Development Plan 2005 (S/H2.10 - STY LANE, MICKLETHWAITE). The proposed residential land use is acceptable in principle subject to other relevant policies being met.

Policy Background

9. One of the key strategic roles of the RUDP, which was adopted in October 2005, was to identify enough land to meet the scale of housing need thought likely to arise for the plan period to 2014. This equated to an annual house building target of 1390 dwellings per annum.

10. Within the RUDP, housing site allocations to meet this requirement were divided into two phases through policies H1 and H2. The land in question at Sty Lane was identified as a 'phase 2 site'. For clarity, it should again be noted that the allocation comprised two parcels of land – one which is the much larger 16 hectares of land which lies to the east of Micklethwaite Lane and this application parcel of land which is 0.75 hectares of land and lies to the west of Micklethwaite Lane. Phase 1 sites were released for development straight away, whereas phase 2 sites often on Greenfield land, were held back for the latter part of the plan period. The trigger point for the release of Phase 2 sites, related to the point when 90% of the Phase 1 housing requirement had actually been built by developers. This was reached in 2008 and thus in August of that year, Phase 2 sites joined the remaining undeveloped Phase 1 sites as available for development.

11. Three years after the adoption of the RUDP, as part of Government legislative requirements, the Council were required to submit to the Secretary of State, its proposals for which policies within the RUDP should be saved beyond October 2008. The housing site allocations and most of the housing policies within the Policy Framework were as a result saved. The release of the Phase 2 sites meant that there was no continuing requirement to 'save' policies H1 and H2, as there was no longer any fundamental difference between the Phase 1 and Phase 2 housing sites identified in the RUDP.

12. Since the adoption of the RUDP in 2005 there have been a number of changes to national and regional planning policy and the Council has also set out its strategic priorities with regards to regeneration and housing in the Big Plan and the District Housing Strategy. The sum total of these changes are to underline and increase the importance of delivering housing development on allocated RUDP housing sites in support of the district's growing population.

13. The most important change in circumstance since the RUDP was produced from a strategic planning point of view is that the scale of need for new housing is now thought to be significantly higher than that which led to the allocation of the site at Sty Lane in 2005. This

makes it difficult to sustain any reasonable objection to the principle of development of this site.

14. In response to these higher levels of anticipated housing need, the Regional Spatial Strategy (RSS) for Yorkshire and the Humber, issued by the Secretary of State in May 2008, set a house building target of 2700 dwellings per annum in the Bradford district for the period between 2008 and 2026. Nearly double the figure of 1390 dwellings per annum which was planned for in the RUDP. The status of RSS has been in flux since the new Coalition Government came to power last year. The Government's overall intention is to abolish RSS's with their replacement of less top down housing requirements as part of the Localism Bill.

15. The Secretary of State's attempt in July 2010 to immediately revoke all existing RSS's was quashed by the Courts following a successful legal challenge by Cala Homes. A further issue of legal dispute remained and that was whether the Government was correct in its view, set out in a letter to Local Planning Authorities (following the initial Cala Homes decision), that the intention to rapidly abolish RSS's should be a material consideration when determining planning applications.

16. On the 27th May 2011 the Court of Appeal dismissed the house builder Cala Home's claim that the Government's intention to revoke regional strategies could never be a lawful material consideration in planning decisions. The Court drew a distinction between plan making decisions where the intention to abolish RSS's could not be a material consideration and development control decisions where it could. However, even with regard to planning applications Lord Justice Sullivan accepted that, at the moment, the Government's intention may only be worthy of being given weight in "very few" of the cases in which the proposed abolition of regional strategies will be relevant. As a result the Yorkshire and Humber RSS and the policies contained within it remain part of the statutory development plan for the Bradford District. This includes the need expressed in RSS Policy H1 for Bradford to plan for the provision of 2700 new dwellings per annum in the period 2008-2026. These and other relevant RSS policies must therefore be considered in the determination of this application.

17. A number of factors lead to a conclusion that there is no significant material reason, which would remove the strategic justification for the development of this site.

(i) The Government's aim in progressing its policy to abolish regional strategies is not borne out of opposition to the delivery of new homes per se but out of a view that the RSS process represented an inappropriate top down imposition of planning policy which would be better determined by the LPA. The Government's intention is that the changes that it is intending to make via the Localism Bill, including abolishing regional strategies, will result in an increased delivery of new homes not a decrease. Indeed the Government in making its pronouncements has criticised the very low levels of new homes delivered across the country in recent years.

(ii) The Government has also made it clear that when the responsibility for determining house building targets passes from the RSS to the LPA via the Local Development Framework, such targets must be based on the same broad range of evidence as was the case in the preparation of regional strategies. Namely that which is set out in paragraph 33 of PPS3. Principal among this evidence is the latest population and household projections issued by the Government.

(iii) Government projections are renewed on a regular basis and in November 2010 new household projections were issued. Although they indicate a slightly lower rate of household increase than was the case previously, the projections suggest that the number of households in Bradford was set to increase at an average of 2800 per annum, an even higher figure than the number being planned for in the Yorkshire and Humber RSS.

(iv) Furthermore, recent research produced by the Leeds City Region for the previously planned Integrated Regional Strategy has reaffirmed that despite the current economic downturn, the medium to long term drivers of population growth in the district, most notably its age profile and demographic make up, remain in place.

18. The conclusion therefore, is that the latest evidence, which the Government itself advocates as one of the main factors in determining future rates of new house building, verifies and substantiates the broad conclusions of the Yorkshire and Humber RSS. Consequently, the impending changes to the Planning system as set out in the Localism Bill will not alter the need for the delivery of housing on sites such as that at Sty Lane. The site remains appropriate for housing development within the policies of the statutory development plan.

19. Both the past and present Government's policy, as set out in Paragraph 71 of Planning Policy Statement 3, has been to put particular emphasis on Local Planning Authorities (LPA) ensuring that there is a 5 year supply of deliverable housing land. Where LPAs are not able to demonstrate that there is sufficient deliverable land they are required to consider favourably applications for planning permissions for housing development to redress this shortfall, subject to compliance with other aspects of national policy.

20. The Planning Service is working with developers, as it is required to do, to assess the precise outturn of deliverable sites against this 5 year land supply requirement, but the results so far suggest that the district may only currently have around half the required 5 year supply of land, judged against the annual house building target of 2700 dwellings per annum. If planning consent was not achieved on this former allocated site at Sty Lane, this would further reduce the supply and impact in terms of non delivery of the new homes needed and increase the threat of other sites or areas of land in the district, which have never been identified in the RUDP for housing development or have been identified for future needs only at this stage – potentially including open space, safeguarded land and green belt - being given consent via the appeal process. This is precisely what has happened in other parts of the country and the recent approval at appeal of the proposed development on safeguarded land at North Dean Avenue, Keighley underlines this potential threat.

21. The need to ensure that previously allocated RUDP housing sites which have already been assessed as sustainable development locations are implemented is further underlined by the relatively poor performance over recent years in terms of the number of new homes, particularly affordable homes, being built in the district. The number of new homes completed has in recent years has failed to match either the actual increase in population and households in the district, or the policy based targets set in the RSS. Failure to deliver the right number of homes over an extended period runs the risk of exacerbating existing problems of overcrowding, putting increased pressure on the social housing stock which is already over subscribed and undermining regeneration.

22. Furthermore, recent work carried out for the forthcoming LDF has revealed the scale of need for affordable homes. This suggests an affordable housing need equivalent to around a third of the total housing requirement, or over 700 dwellings per annum. This is well in excess

of anything achieved in recent years. The development at Sty Lane therefore has the potential to make a contribution to both market and affordable housing need.

23. In conclusion the district faces a significant challenge in securing sufficient housing to meet its need over the coming years. Ensuring the delivery of development on existing identified housing sites will be the first step to meeting this challenge. It is essential that land is available now which can be prepared and progressed so that the needs of the district's population are met as confidence among both developers and house purchasers recovers. This relatively small parcel of land will help boost the supply of new homes at a time when housing delivery has dropped to undesirably low levels. Therefore, if an acceptable scheme is achieved, the site will contribute to the Council's 5 year land supply and thus reduce the pressure and threat of unplanned releases of land in other locations which conflict with current RUDP policy such as the green belt.

24. Overall, the proposed residential use of the site is acceptable in principle. An extensive and robust statutory process has previously allocated this site for development under policies H1 and H2 in the RUDP.

Sustainability

25. The draft national Planning Framework advises that the purpose of the planning system is to contribute to sustainable development. For the planning system delivering sustainable development means:

- Planning for prosperity (an economic role) – by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;
- Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;
- Planning for places (an environmental role) – by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

26. The established approach to planning for sustainable development is set out in Planning Policy Statement 1 (PPS1). The key principles of this documents are that are that good quality, carefully sited accessible development within existing towns and villages should be allowed where it benefits the local economy and/or community; maintains or enhances the local environment; and does not conflict with other planning policies. Accessibility should be a key consideration in all development decisions. Most developments that are likely to generate large numbers of trips should be located in or next to towns or other service centres that are accessible by public transport, walking or cycling. New building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled; the overall aim is to protect the countryside for the sake of its character and beauty and the diversity of its landscapes.

27. It is considered that the proposed development meets the sustainability criteria outlined in established national and local policy. Indeed, the site is located in close proximity to a major distributor road within the District and is also in proximity to a range of services, not least Crossflatts Railway Station. Furthermore, the 10 minute bus route runs along Keighley Road at the bottom of Micklethwaite Lane.

28. Good design ensures attractive usable, durable and adaptable places and is a key element in achieving sustainable development. This is a fully detailed application which shows that environmental sustainability will be maximised by the creation of a large green reserve adjacent to the Leeds-Liverpool Canal and a focal landscaping area within the development itself both ensure that a suitable and meaningful place can be achieved for this well designed housing development. Furthermore the establishment of a holistic landscaping management strategy for the site can mitigate the impact of the development and provide an increase in biodiversity adjoining the canal over time.

Density/Efficient use of land

29. Policies H7 and H8 of the RUDP seek to ensure that the best and most efficient use is made of any development site. Paragraph 69 of PPS 3 also advises that local Planning Authorities shall have regard to:

- Achieving high quality housing
- Ensuing development achieve a good mix of housing
- The suitability of a site for housing
- Using land effectively and efficiently
- Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in the area.

30. The total number of units proposed for this development is 27. Taking the site area of 0.75 hectares an overall site density of around 36 dwellings per hectare is generated. As the majority of the site falls within 400m of frequent bus services on Keighley Road and 800m of the railway station at Crossflatts the overall site density should ordinarily be above 50 dwellings per hectare. However, it is recognised there are site specific factors such the conservation area setting/status of this application site, the 10 -18m Green reserve buffer strip to the SEGI, and design considerations which allows for a justification of a density of below 50 dwellings per hectare can be justified as an exception to policy H7.

Heritage issues/design principles/landscape impacts

31. The application site lies wholly within the Leeds-Liverpool Conservation area and lies adjacent to a cluster of key unlisted buildings and in close proximity (across Micklethwaite Lane) from the Grade 2 listed building of Laythorpe Farm and Barn. The Councils heritage specialist advises that the PPS5 assessment of heritage assets which was submitted by the applicants has appropriately assessed the relevant heritage impacts of the proposed development.

32. Planning Policy Statement 3 (PPS3) sets out the national policy objectives for housing. The first objective is *“High quality housing that is well-designed and built to a high standard”*. PPS3 goes on to state that, *“Good design is fundamental to the development of high quality new housing”*. In order to facilitate this it states that local authorities should draw on relevant guidance and in the Replacement Unitary Development Plan (RUDP) this guidance includes policies D1, UR3, BH7, BH10 and BH20 which effectively state that new development should relate to the existing character of the locality and is of the highest standards of design to preserve or enhance the character or appearance of the conservation area.

33. The proposal has been subject to significant input during design development and as such it is considered that the proposals are well-conceived and fully reflect good design with a good tight frontage and site layout and a respectful relationship to the canal with a broad habitat buffer and buildings of a more contemporary industrial character addressing this

aspect. Moreover, the fenestration of the plots fronting Micklethwaite Lane displays some variety with a blend of lean-to and pitched porches. The applicant has demonstrated use of appropriate detailing at eaves level, in window set-back and construction, although the chimney stacks could be a little diminutive in relation to the buildings. The proposed schedules of materials for each dwelling is considered to be most appropriate for this sensitive setting and a condition requiring a sample panel of materials and masonry should be attached to any permission granted.

34. From a landscaping point of view, the landscape buffer to the canal frontage is a welcome feature in addition to the soft landscape focal area. General landscape treatments on the site and boundaries appear complementary to the overall design on the site whilst surface treatments as now shown are considered appropriate. A condition should be attached to any permission granted to ensure that all landscape features outside of private residential property are managed holistically as one landscape component in order to ensure the integrity of the landscaping element of the scheme is comprehensively managed.

35. Overall, being mindful of the former allocation of the site for housing and the conservation area designation, together with views and wider characteristics identified in the assessment, the proposals are considered to be a good balance. The character of the conservation area will be maintained and policies BH7, BH20 and D1 are satisfied. Furthermore, the proposed landscaping elements of the proposal comply with established planning policy and ensure that a well designed place is achieved for this proposed housing site.

Impacts of the proposal on adjoining properties/premises

36. Residential properties are sited to the north, south and west of the application site with many sited on the other side of the Leeds-Liverpool Canal. It is considered that no undue loss of amenities would be created on any of the surrounding residential properties or adjoining businesses. A condition ensuring that no windows are to be inserted into the flank elevations of plots 1 and 20 should be attached to any permission to ensure that no window/door insertions are made into these elevations which may compromise the privacy and amenities of the adjoining residential properties – i.e. Airedale House and Airedale Mills respectively. Furthermore, appropriate boundary treatments are proposed throughout the development to ensure that scheme does not adversely affect the amenities of the existing properties. As such, overall, it is considered that the proposal complies with policy UR3 of the Replacement Unitary Development Plan.

Other Impacts - Biodiversity

37. Whilst Policy NE10 of the RUDP states that wildlife habitats accommodating protected species will be protected by the use of Planning conditions/obligations it is clear from the supporting text and Policy NE11 that an ecological appraisal should be submitted with a planning application so that the Local Planning Authority can 'assess the potential impact of the proposed development prior to the consideration of granting planning permission.'

38. A habitat survey and protected species assessment has been submitted as part of this application. Further survey work is recommended by the applicant's ecology specialist and as such a condition should be attached to any permission granted to ensure further assessment of otters and white clawed crayfish before development commences. A landscape management strategy is also proposed for the green reserve area of the development to ensure that biodiversity of the site is ultimately enhanced.

Other Impacts - Contamination Issues

39. The area of the proposed development is within an area of Intermediate Radon Probability as between 1 and 3% of homes may be above the Action level. Building Control Regulations however indicate that radon protective measures are necessary where the percentage of homes which may be affected is less than 3%.

40. The submitted studies and historical data for the area indicate that the site has previously been undeveloped farmland and that there was potential for areas of the site to have been infilled. No evidence of infilling has been identified in the site investigation and therefore no gas monitoring has been required. Whilst there is currently no evidence of other infilling or contamination material on the site, there is potential for this to be revealed during site preparation and ground works. Conditions regarding unexpected contamination and the importation of materials to the site should also be attached to any permission granted to ensure that the site is 'fit for purpose'.

Highway Safety

41. Vehicular access to the site is proposed via Micklethwaite Lane which will be widening to 4.1m in width for the extent of the application site frontage. A spine road with refuse turning facilities is proposed down the middle of the development site with parking area/courts in close proximity to each housing unit. Overall there is no objection in principle to this proposed development from a highway and pedestrian safety point of view.

42. In the history section of this report full details of the planning situation on the adjoining site were given i.e. the fact that planning permission 11/01203/MAO for the construction of 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 was refused permission for the following two highway reasons:-

- 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 Replacement Unitary Development Plan.
- 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 Replacement Unitary Development Plan.

Members should not however that from a highway perspective this application is not dependent on the delivery of any new swing bridge. It is considered that the existing swing bridge can safely accommodate the proposed 27 new dwellings and as such the determination of this application is independent of the determination of the large outline scheme (11/01203/MAO) and the acceptability of the new proposed swing bridge proposed within that application on what is the remainder (and majority) of the formerly identified Sty Lane housing site (S/H2.10).

43. An appropriate level of parking is provided within the scheme – 52 spaces in total which includes 5 visitor parking spaces. Overall the proposal is considered to be in accord within policies TM2, TM12, TM19A of the Replacement Unitary Development Plan.

Use of planning conditions/Legal Agreements/278 agreements/Contributions

44. Development of housing schemes in the district of the scale proposed inevitably involves physical infrastructure works, management plans of communal areas and social infrastructure works such as education and recreation provision and affordable housing. In line with policy UR6 of the Replacement Unitary Development Plan it is usually appropriate that the developer should enter into a Section 106 to address the following issues – affordable housing, recreational provision, transport infrastructure and educational contributions.

45. Policy H9 of the Replacement Unitary Development Plan seeks to achieve affordable housing provision within development sites in Airedale of 30%. The housing enabling section has also identified a need for 2 and 3 bedroom properties in the area. Four affordable housing units are proposed within the current scheme which are proposed in lieu of the required 8 (which comprise 30% of the units) as the developer has put forward a justification for abnormal costs associated with the development of this site (see exempt report elsewhere on this agenda). Members should note that following their resolution to be minded to approve the application but to defer it in the first instance to allow for the further submission of financial information, the applicant has obtained a further independent viability appraisal which has been duly appraised by specialist officers within the Councils economic development section.

46. Policy OS5 of the RUDP requires that new residential development be required to make appropriate provision of or equivalent commuted payment for recreational open space. Recreational space is provided via the Green reserve area which comprises spaces adjoining the Canal where persons can enjoy the waterfront and the general ambience of this part of the conservation area. The useable space created is approximately 1490m² in size which is significantly in excess of the required 540 sqm of open space which is defined in policy OS5 of the RUDP although clearly no recreation equipment will be provided in the green reserve as the whole point of such a space is for it to be used for conservation/biodiversity purposes and not for recreational play facilities. In line with current standards the parks/recreation section have recommended a commuted sum of £19,196 to provide/enhance recreation space elsewhere would be required as they have not recognised the provision of an area of green reserve without any equipment upon it. However, as outlined above, due to the financial implications for the development of the site because of its sensitive location within the conservation area/use of materials, the developer has provided a financial appraisal advising that this contribution, along with that detailed above, which would normally form part of a development of this size, cannot be achieved.

47. Further development contributions include: -

- (i) Metro cards to promote sustainable modes of transport. Usually, one metro card is provided for 60% of the units over a certain period with the developer paying 50% of the list price (+ 10% administration charge) for the first year of occupation of the unit. This figure has been calculated by Metro as being £9424.80 but has not been agreed to by the applicants due to the financial viability of the overall scheme, and;
- (ii) Educational provision - Under policy CF2 of the Replacement Unitary Development Plan, new housing proposals that would result in an increased demand for educational facilities that cannot be met by existing schools and colleges should contribute to new and extended

school facilities. The nearest schools, both at primary and secondary level, are full and a contribution of £85,138 is therefore sought and has been full offered as part of the S106 legal agreement, and;

(iii) A management plan agreement for the management of all communal areas on the site which shall include long term design objectives, management responsibilities and maintenance schedules for all the areas in addition to biodiversity enhancements). All these areas to be provided prior to occupation of the 20th unit and to remain open and free from any built form in perpetuity, and;

(iv) The off-site highway improvement requiring the applicant to enter into a Section 278 Agreement with the council prior to any works.

48. The applicants have argued that due to the viability of the site, it is not feasible to provide the full development contributions towards:-

- (i) the full provision of affordable housing provision (they are providing 4 instead of 8), or;
- (ii) a contribution towards recreation play facilities (they are providing a green reserve next to the Canal instead of any equipped space), or;
- (iii) the provision of metro cards (one per unit).

Indeed, the applicant cites abnormal costs for the development associated with retaining structures and piling, the provision of a pumping station and the requirement within this highly visible conservation area to provide top quality materials of natural stone and slate roofs.

49. The originally submitted financial viability appraisal along with the recently submitted additional financial appraisal requested by Members have both been assessed by the Councils economic development section. It is agreed that the financial appraisals are acceptable providing an overage agreement is also added to the S106 legal agreement. The overage agreement provides the potential for additional contributions if development profits of 20% are reached. A senior officer from economic development will again be attending the planning panel to advise Members on the appraisal details.

Community Safety Implications:

50. Specific boundary detailing has been proposed and considered to be acceptable which strike a balance between the conservation area designs principles required of the site and with Secure by Design principles. As such, it is now considered that the proposal will pose no undue community safety implications and accords with Policy D4 of the Replacement Unitary Development Plan.

Comments on the letters of representation:

51. The issues raised in the letters of representation received have in the main been covered within the relevant sections of the above report .e.g. the principle of development on this Greenfield site, highway and conservation impacts.

52. It is clear from the letters of representation that many residents remain concerned about how any traffic increase from this development would compromise highway safety. It is however considered by the Councils highway engineers that this development is acceptable with or without the provision of a replacement swing bridge which is being considered by the Secretary of State as part of the much larger development scheme on the opposite site of Mickelthwaite Lane (11/01203/MAO). The proposed changes to Mickelthwaite Lane and suitable shared surface from Mickelthwaite Lane into the development site will ensure that highway and pedestrian safety into and out of the site is provided.

Reason for Granting Planning Permission:

In granting permission for this development the Council has taken into account all material planning considerations including those arising from the comments of many statutory and other consultees, public representations about the application and Government Guidance and policy as detailed in the Planning Policy Guidance Notes and Statements, and the content and policies within the Supplementary Planning Guidance and The Development Plan consisting of the Regional Spatial Strategy and the Replacement Unitary Development Plan for the Bradford District 2005.

The Council considers that the following matters justify the grant of planning permission:

The development of this sustainability located former allocated housing site with a well conceived residential development is considered an appropriate development of the site that gives the opportunity to provide a sustainable pattern of development at the edge of the urban fabric of Bingley. The effect of the proposal on the Site of Local Nature conservation (SEGI), the Leeds – Liverpool Canal Conservation Area, the surrounding locality and the adjacent neighbouring residential properties has been assessed and is considered acceptable. The provision of an access to the site and through the site in the manner proposed is appropriate and an acceptable amount of parking provision is provided throughout the scheme; as such the proposal is not considered to compromise highway and pedestrian safety.

Overall, it is considered that the provision of a residential scheme as proposed, takes into account the constraints and sensitivities of this conservation area site and creates a well designed place. As such, it is considered development in the manner proposed is in conformity with the development principles outlined within the Replacement Unitary Development Plan under policies UDP1, UDP3, UDP7, UR3, UR6, H4, H7, H8, H9, TM2, TM12, TM19A, D1, D2, D4, BH4A, BH7, BH10, BH20, CF2, OS5, NE3, NE3A, NE4, NE5, NE9, NE10, NE11, NE12, NE13, NR16 and NR17A.

Approval is recommended accordingly subject to a section S106/S278 legal agreement and the following conditions: -

Conditions of Approval:

1. The development to which this notice relates must be begun not later than the expiration of three years beginning with the date of this notice.

Reason: To accord with the requirements of Section 91 of the Town and Country Planning Act, 1990 (as amended).

2. The development hereby approved shall only be carried out in accordance with the following plans CH/001/001 Rev H, 002, 003, 004, 005, 006 Rev A, 007 Rev A, 008, 010, 011, 012, 015, 016, and 017.

Reason: For the avoidance of doubt as to the terms under which this planning permission has been granted.

3. Samples of all facing and roofing materials in the form of a sample panel which shows the type of pointing to be used shall be erected on site for inspection and approved in writing by the Local Planning Authority before the development commences. The development shall be constructed in the approved materials

Reason: To ensure the use of appropriate materials in the interests of visual amenity and to accord with Policies UR3, D1, BH7 and BH20 of the Replacement Unitary Development Plan.

4. Before any part of the development is brought into use, the proposed car parking spaces shall be laid out, hard surfaced, sealed, marked out into bays and drained within the curtilage of the site in accordance with the approved proposed site plan numbered CH/001/001 Rev H and to a specification to be submitted to and approved in writing by the Local Planning Authority. The car park so approved shall be kept available for use while ever the development is in use.

Reason: In the interests of highway safety and to accord with Policies TM2 and TM11 of the Replacement Unitary Development Plan.

5. Before any works towards construction of the development commence on site, the proposed means of vehicular and pedestrian access hereby approved shall be laid out, hard surfaced, sealed and drained within the site to base course level in accordance with the approved proposed site plan numbered CH/001/001 Rev H and completed to a constructional specification approved in writing by the Local Planning Authority.

Reason: To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with Policy TM19A of Replacement Unitary Development Plan.

6. Before any part of the development is brought into use, the proposed means of vehicular and pedestrian access hereby approved shall be laid out, hard surfaced, sealed and drained within the site in accordance with the approved plan numbered and completed to a constructional specification approved in writing by the Local Planning Authority.

Reason: To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and to accord with Policy TM19A of the Replacement Unitary Development Plan.

7. Before any part of the development is brought into use, the visibility splays hereby approved proposed site plan numbered CH/001/001 Rev H shall be laid out and there shall be no obstruction to visibility exceeding 900mm in height within the splays so formed above the road level of the adjacent highway.

Reason: To ensure that visibility is maintained at all times in the interests of highway safety and to accord with Policy TM19A of the Replacement Unitary Development Plan

8. The development shall not begin until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall be based on native species and shall show the following details:

- i) Position of trees to be felled, trees to be retained, proposed trees and defined limits of shrubs and grass areas.
- ii) Numbers of trees and shrubs in each position with size of stock, species and variety.
- iii) Types of hard surfacing (paviors, tarmac, etc).
- iv) Regraded contours and details of changes in level

Reason: In the interests of visual amenity and to accord with Policies UR3, D1 and D5 of the Replacement Unitary Development Plan.

9. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: To achieve a satisfactory standard of landscaping in the interests of amenity, to improve the appearance of the site when viewed from the waterside, to enhance the biodiversity of the area and to accord with Policies UR3, BH7, BH20 and D1 of the Replacement Unitary Development Plan.

10. The development shall not begin until details of a scheme for separate foul and surface water drainage, including any balancing works or off-site works, have been submitted to and approved in writing by the Local Planning Authority. The details shall provide for a sustainable urban drainage scheme throughout the site and demonstrate that there is no resultant unacceptable risk to controlled waters. The scheme so approved shall thereafter be implemented in full before the first occupation of the development.

Reason: To ensure proper drainage of the site and to accord with policies UR3 and NR16 of the Replacement Unitary Development Plan.

11. Notwithstanding the provision of Class A, Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation, the development hereby permitted shall not be begun until a plan specifying arrangements for the management of the construction site has been submitted to and approved in writing by the Local Planning Authority. The construction plan shall include the following details:

- i) full details of the contractor's means of access to the site including measures to deal with surface water drainage;
- ii) hours of delivery of materials;
- iii) location of site management offices and/or sales office;
- iv) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;
- v) car parking areas for construction workers, sales staff and customers;
- vi) a wheel cleaning facility or other comparable measures to prevent site vehicles bringing mud, debris or dirt onto a highway adjoining the development site;
- vii) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas and the construction depths of these accesses, their levels and gradients;
- viii) temporary warning and direction signing on the approaches to the site

The construction plan details as approved shall be implemented before the development hereby permitted is begun and shall be kept in place, operated and adhered to at all times until the development is completed. In addition, no vehicles involved in the construction of the development shall enter or leave the site of the development except via the temporary road access comprised within the approved construction plan.

Reason: To ensure the provision of proper site construction facilities on the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies TM2 and TM19A of the Replacement Unitary Development Plan.

12. Construction work shall only be carried out between the hours of 0730 and 1800 on Mondays to Fridays, 0730 and 1300 on Saturdays and at no time on Sundays, Bank or Public Holidays, unless specifically agreed otherwise in writing by the Local Planning Authority.

Reason: To protect the amenity of the occupants of nearby dwellings and premises and to accord with Policy UR3 of the Replacement Unitary Development Plan.

13. All sheet piling operations shall only be carried out between the hours of 0900 and 1630 on Mondays to Fridays, 0900 and 1300 on Saturdays and at no time on Sundays, Bank or Public Holidays, unless specifically agreed otherwise in writing by the Local Planning Authority.

Reason: To protect the amenity of the occupants of nearby dwellings and premises and to accord with Policy UR3 of the Replacement Unitary Development Plan.

14. If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme agreed in writing by the Local Planning Authority.

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy UR3 of the Replacement Unitary Development Plan.

15. A methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils shall be submitted to, and approved in writing by the Local Planning Authority prior to materials being brought to site. Relevant evidence and a verification report shall be submitted to, and is subject to the approval in writing by, the Local Planning Authority.

Reason: To ensure that all materials brought to the site are acceptable, to ensure that contamination/pollution is not brought into the development site and to ensure that requirements of policy UR3 of the Replacement Unitary Development Plan have been accorded with.

16. Prior to commencement of ground works on site, the made ground around Trial Pit 7 must be delimited. The made ground materials must either be removed from site or a method statement describing how it will be dealt with on the site submitted for approval in writing by the Local Planning Authority. A verification report must be submitted to the Local Planning Authority once the removal or treatment work has been completed.

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy UR3 of the Replacement Unitary Development Plan.

17. No part of the development shall be occupied until details of the type and position of all proposed external lighting fixtures to the buildings and external areas have been submitted to and approved in writing by the Local Planning Authority. The lights so approved shall be installed in accordance with the approved details and maintained thereafter to prevent the light sources adversely affecting biodiversity of the site.

Reason: The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and efficient, and protect the integrity of the waterway infrastructure. To ensure that the amenities of the adjacent locality are not unduly compromised, to protect biodiversity on the site and to accord with policy NE13 of the Replacement Unitary Development Plan.

18. A management plan/maintenance agreement for the long term management/maintenance of communal/public open space areas, including long term design objectives, management responsibilities and maintenance schedules for all landscape and open areas including the areas adjoining the Canal, shall be submitted to, and approved by the Local Planning Authority prior to the first occupation of any unit. The management plan/maintenance agreement shall be carried out as approved.

Reason: To ensure proper management and maintenance of the landscaped communal areas in the interests of amenity and to accord with Policies UR3, BH7, BH20 and D5 of the Replacement Unitary Development Plan.

19. The development shall not be begun, nor shall any demolition, site preparation, ground works, materials or machinery be brought on to the site until a Tree Protection Plan showing Root Protection Areas and location of temporary Tree Protective Fencing has been submitted to and approved in writing by the Local Planning Authority.

The Tree Protection Plan shall be to a minimum standard as indicated in BS 5837 (2005) Trees In Relation To Construction Recommendations and show the temporary Tree Protective Fencing being at least 2.3m in height of scaffold type construction and secured by chipboard panels or similar. The position of the temporary Tree Protective Fencing will be outside Root Protection Areas (unless otherwise agreed with the Local Planning Authority) as shown on the Tree Protection Plan.

The development shall not be begun, nor shall any demolition, site preparation, ground works, materials or machinery be brought on to the site until Temporary Tree Protective Fencing is erected in accordance with the details submitted in the Tree

Protection Plan as approved by the Local Planning Authority. The temporary Tree Protective Fencing shall be driven at least 0.6m into the ground and remain in the location as shown in the approved Tree Protection Plan and shall not move or be moved for the duration of the development.

The Local Planning Authority must be notified in writing of the completion of erection of the temporary Tree Protective Fencing and have confirmed in writing that it is erected in accordance with the approved Tree Protection Plan.

No development, excavations, engineering works and storage of materials or equipment shall take place within the Root Protection Areas for the duration of the development without written consent by the Local Planning Authority.

Reason: To ensure trees are protected during the construction period and in the interests of visual amenity. To safeguard the visual amenity provided by the trees on the site and to accord with Policies NE4 and NE5 of the Replacement Unitary Development Plan.

20. No part of the development shall be occupied until a final plan showing the positions, design and materials of boundary treatments has been submitted to and approved in writing by the LPA. The treatments so approved shall then be provided in full prior to the first occupation of the buildings/dwellings and shall thereafter be retained. No other fences or means of enclosure shall be constructed under permitted development rights (part 2, class 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) without the prior approval of the Local Planning Authority.

Reason: In the interests of the character and visual amenity of the area and the adjoining Leeds Liverpool Conservation Area, to ensure the biodiversity value of the site is maintained and to accord with policies UR3, NE9, EN10, NE12 and NE13 of the Replacement Unitary Development Plan.

21. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) order 1995 (or any subsequent equivalent legislation) no development falling within Classes A, B, C, D and E of Part 1 of Schedule 2 of the said Order shall be carried out without the prior written permission of the Local Planning Authority.

Reason: In the interests of the character and visual amenity of the area and the adjoining Leeds Liverpool Conservation Area, to ensure the biodiversity value of the site is maintained and to accord with policies UR3, NE9, EN10, NE12 and NE13 of the Replacement Unitary Development Plan.

22. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) order 1995 (or any subsequent equivalent legislation) no further windows or other openings shall be formed in the flank elevations of plots 1 and 20 without the prior written permission of the Local Planning Authority.

Reason: To safeguard the privacy and amenity of occupiers of neighbouring properties and to accord with policies UR3 and D1 of the Replacement Unitary Development Plan.

23. A checking survey for the presence of otters shall be undertaken prior to the commencement of any construction works to the canal. The survey and any mitigation strategy that may be required following the checking survey shall be submitted and approved in writing by the Local Planning Authority prior to development commencing on construction works to the Leeds-Liverpool Canal.

Reason: To ensure the protection of wildlife habitats accommodating protected species are protected and to accord with policy D10 of the Replacement Unitary Development Plan.

24. A supplementary precautionary survey for white clawed crayfish and submission of an appropriate mitigation strategy survey (if this species is identified) shall be undertaken prior to the commencement of any construction works which may be undertaken to the canal bank.

Reason: To ensure the protection of wildlife habitats accommodating protected species are protected and to accord with policy D10 of the Replacement Unitary Development Plan.

Heads of Terms of any a Section 106/S278 legal agreement:

- Provision of 4 affordable housing units (2 and 3 bedroom) on the site at a discount of 35% discount on Open Market Value.
- Payment of education contribution of £85,138 for primary and secondary education facilities in the locality. To be paid at the following triggers: 50% on the occupation of the 10th unit with the remainder paid on the occupation of the 20th unit.
- A management plan agreement for the management of all communal areas on the site. This shall include long term design objectives, management responsibilities and maintenance schedules for all the areas in addition to including biodiversity enhancements). All these areas to be provided prior to occupation of the 20th unit and to remain open and free from any built form in perpetuity
- Undertaking to carry out the provision of highway works under a Section 278 Agreement
- The Council to covenant that no open space recreation contribution, no Metro card contribution or additional contribution to the provision of affordable housing (over and above the agreed 4 units which are to be provided under this S106 legal agreement) becoming payable by the developer unless and until the development has achieved a percentage of profit in the scheme as a whole.