

## Minutes of a meeting of the Regulatory and Appeals Committee held on Thursday 9 February 2017 at City Hall, Bradford

Commenced	9.40 am
Site Visit	11.50 am - 1.30 pm
Adjourned	1.30 pm
Recommenced	1.55 pm
Concluded	4.20 pm

### Present – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
<b>Barker</b> <b>Ellis</b>	<b>Warburton</b> <b>Abid Hussain</b> <b>Wainwright</b> <b>Watson</b>	<b>Griffiths</b>

Apologies: Councillor Brown

Observers: Councillors M Slater (Minute 66) and Poulsen (Minute 68)

### Councillor Warburton in the Chair

#### 63. DISCLOSURES OF INTEREST

In the interests of transparency, Councillors Barker, Ellis, Abid Hussain, Wainwright and Warburton disclosed, in respect of the item relating to Land to the East of the Former Gas Works, Airedale Road, Keighley (Minute 66), that they had been Members of the Committee when a previous application(s) for this site had been considered. They stated that they would approach the issue with an open mind and consider all the relevant material planning issues before making a decision.

In the interests of transparency, Councillors Barker, Ellis, Griffiths, Abid Hussain, Wainwright, Warburton and Watson disclosed, in respect of the item relating to Greenholme Mills, Iron Row, Burley in Wharfedale (Minute 67), that they had been Members of the Committee when this application had been considered previously. They stated that they would approach the issue with an open mind and consider all the relevant material planning issues before making a decision.



In the interests of transparency, Councillor Ellis disclosed that he was a Member of the West Yorkshire Flood and Coastal Committee and the Overview and Scrutiny Committee of the West Yorkshire Combined Authority and was quoted on Page 200 of the Assistant Director - Planning, Transportation and Highways' technical report.

#### **64. INSPECTION OF REPORTS AND BACKGROUND PAPERS**

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

#### **65. MEMBERSHIP OF SUB-COMMITTEES**

No resolution was passed on this item.

***NO ACTION***

### **DECISION FURTHER TO A SITE VISIT**

#### **66. LAND TO THE EAST OF THE FORMER GAS WORKS, AIREDALE ROAD, KEIGHLEY** **Keighley East**

Previous references: Minutes 107 (2013/14) and 28 (2015/16)

A report was submitted by the Assistant Director – Planning, Transportation and Highways (**Document “AF”**) in respect of a planning application for the development of two plants to recover energy from waste including a materials reception, a waste bunker hall, a turbogenerator hall, a bottom ash hall, an education/visitors centre, offices and a workshop/warehouse for plant operatives with associated parking and landscaping, on land to the east of the Former Gas Works, Airedale Road, Keighley – 16/06857/FUL.

The Assistant Director reported on the following matters which had arisen further to the publication of the technical report:

- The Secretary of State for Communities and Local Government had requested that the Authority withhold issue of the Decision Notice to allow him time to consider whether he wished to ‘call in’ the application for determination.
- Bingley Town Council had stated that following further consideration of the matter it now objected to the proposal.
- A representation had been received from Ilkley Parish Council in respect of the need to ensure that the regulatory requirements in relation to emissions were subject to scrutiny. They neither supported or objected to the proposal.
- A further 161 representations had been received. Any material planning issues raised had been considered within the report or would be addressed in presenting the application to Members.
- An additional petition had been received from residents of The Croft.
- The online petition now contained 5299 signatures.
- It had been pointed out by a small number of residents that there were subtle

differences in the colour of the main building on one photomontage (provided by the applicant) uploaded to the Council's website. He clarified that the final colour of the cladding would be controlled through a condition.

- It was recommended that, should Members be minded to approve the application, Condition 5, in relation to permitted times for HGV movements, be amended to read 0730 to 1800 Monday to Friday, 0730 to 1200 on Saturday and none on Sundays or bank/public holidays.
- It was also recommended, in response to an issue raised by the UK Without Incineration (UKWIN) pressure group and as suggested by the applicant, that an additional condition should also be included in respect of the verification of R1 status and compliance thereafter. (R1 denoting that the facility would sit within the 'other recovery' category of the EU 'Waste Hierarchy').
- Other issues raised by UKWIN were that climate change and the effect on tourism had not been sufficiently covered. He considered that there was sufficient information for the purposes of determining the planning application and it was noted that there was no specific requirement in the National Planning Policy Framework (NPPF) to balance harm to tourism against public benefits as there was for heritage assets and that, in terms of specific planning designations in respect of tourism, the only reference in the Council's Replacement Unitary Development Plan (RUDP) was to the Leeds Liverpool Canal.

The Assistant Director gave a full presentation on his technical report including the display of numerous photographs and plans and highlighting the following points:

- The previous planning history affecting the site:
  - 13/04217/FUL – planning permission granted in April 2014 for three plants to recover energy from waste.
  - 15/01381/FUL – application for two plants refused due to detrimental impact on visual amenity and landscape character as a result of the height, massing, form, finish, design and scale.
- The applicant had notified the Council, in October 2016, that work had commenced on site and they had implemented the 2014 planning permission.
- This application sought to address the reasons for refusal in 2015 by amending the height, massing, form, finish, design and scale of the buildings.
- The processes, operations, HGV numbers, emissions, noise levels, hours of operation etc remained as set out in 2015. Nevertheless all matters were considered again and should be taken fully into consideration for the purposes of determination of this application.
- Significant concerns had been raised by the public in relation to a number of matters including health, emissions, loss of residential amenity, need for the facility, impact on heritage assets and that any benefits did not outweigh the harm.
- The key issues included: consideration of sustainable development; need for the facility; regeneration, community, economy, employment and other socio-economic benefits; health, emissions and air quality; transport/highways impact; environmental impacts; design; flood risk; visual impact and cultural heritage impacts.
- The facility would not be able to operate without the relevant Environmental Permit from the Environment Agency (EA) and the EA had stated that if it

considered 'that emissions would cause significant pollution, the permit would be refused'.

- The remit of the Local Planning Authority (LPA) was established in Paragraph 122 of the NPPF and supported by relevant case law. The Authority had taken appropriate technical advice from the relevant statutory bodies to satisfy itself that the development would not result in significant air quality, pollution, or health impacts and it had to work on the assumption that the relevant control regime would be properly applied and enforced. It was not part of the Council's role to consider the impact of the stack emissions in detail.
- Overall it was considered that the public benefits outweighed the less than substantial harm to the setting of the listed buildings at East Riddlesden Hall and the harm to residential visual amenity was not sufficient to warrant refusal of the application.

The Assistant Director answered questions from Members:

- The applicant had started work on site and had indicated an intention to move forward with the April 2014 permission.
- There were differences between the current proposal and that approved for an Energy from Waste facility in April 2014. The main building was similar and the height of the stack was the same at 60 metres but its diameter had been reduced from 4 metres to 2.2 metres and it had been repositioned.
- It was understood that the proposed cladding material was made from an aluminium type material and would be colour integrated; the finish was toned down from that proposed previously.
- In terms of proximity to the play area of a local nursery; emissions and their monitoring and control was a matter for the Environment Agency and the Environmental Permit regime. The information submitted with the application showed that the levels would not exceed what would be permissible.
- In respect of comparison with the extant 2014 permission, the Committee had to consider the application before it on its own merits.
- Legal advice had been sought and the Council's emerging Waste Development Plan Document (DPD) was not affected by the current Holding Direction on the Core Strategy.
- The 2014 application had not been 'called in' by the Secretary of State.
- In respect of the weight to be afforded to the two applications at Dalton Mills (for a battery based energy storage centre and a Data Centre; the energy for which would be supplied by this facility) these proposals were to be considered alongside the other public benefits of the proposal.

A representative of the objectors (representing the Aire Valley Against Incineration pressure group) showed a number of photographs and diagrams, with the agreement of the Chair, and put forward the following concerns:

- 5325 people had signed a petition objecting to the development, there had been 804 formal written representations submitted and thousands of other local residents would be affected.
- It was questioned why this application was before the Committee for determination if the April 2014 permission was to be implemented.

- The concerns about the negative impacts on health were a material consideration and were based on actual data.
- Greenpeace had stated that the data was 'strongly indicative that incinerators are potentially very damaging to human health'.
- Keighley residents already had a lower than average life expectancy.
- The Environment Agency had not said that this facility would be safe; it had not yet been assessed. The emissions from the facility would not be regularly monitored and toxins could be released on a regular basis without penalty.
- A response was awaited to a Freedom of Information request and it was suspected that very few Environmental Permits were ever refused.
- It was questioned where the waste was coming from and where the by-products would be disposed of.
- How would temperature inversions in the valley affect dispersal?
- Defra (the Department for Environment, Food and Rural Affairs) had stopped PFI (Private Finance Initiative) funding for waste disposal projects as it believed that there was sufficient capacity to meet targets.
- Air Quality in the area already breached EU levels with consequent implications for health. The Environmental Pollution Team had stated that the additional traffic could have public health implications beyond the immediate site. The proposal would lead to an increase in HGV movements.
- The 2015 application had been refused; it was believed that there was no real difference between that proposal and this in terms of height, scale or massing. The current development would be 35 metres high; 16% higher than that approved in 2014.
- To quote the Council's Landscape Architect, the facility would be a 'formidable structure'. It would be huge and could not be in a worse location. The plume would be visible from Haworth and Ilkley Moor.
- The plant would be in the field of vision of the residential hamlet of The Croft and would make this an unpleasant place to live. It would have a direct adverse effect on the four properties at this location and would be contrary to planning policy. It would also have an impact on the visual amenity of many other houses.
- The applicant claimed that the development would have economic benefits and improve prosperity but an independent report claimed that incinerators had a detrimental effect on a local economy. The construction jobs would be temporary and the office jobs were non-existent. No other incinerator in the country employed more than 40 people. The proposal would lead to a loss of jobs associated with the tourism sector, the nearby playing fields and nursery, and the Nursing Home at The Croft.
- It was considered that the benefits had been exaggerated and the negatives minimised.
- This development would blight the valley and local people would have to live with it.

In response to a question from a Member she explained that the independent report referred to concerned the Newhaven Incinerator, which had discouraged business.

A representative of objectors from the Riddlesden and East Morton areas was

also given the opportunity to address the Committee:

- In a recent email to the LPA, dated 7 February, it was believed that the applicant's agent had made two fundamental errors in respect of the R1 status of the facility. It had been stated that the plant was R1 when it patently was not; there was no evidence to this effect and it would not be R1 until it gained the necessary certificate. The achievement of R1 status was not a requirement of the Environment Agency; an Environmental Permit would be needed but the company would have to apply separately for R1 certification. The concession (of the additional condition in this respect) was welcomed but it was very important that, if the Council gave approval, this was made watertight.
- It was understood that the Council was required to request an Environmental Impact Assessment for the whole facility and would need information on the total emissions. No information had been provided in respect of the waste plastic processing element. The applicant had stated that the emissions would be negligible but a letter from the Environment Agency in September 2016 had said that this was not adequate. It was questioned how the Environmental Impact Assessment could be signed off without these details.
- The Committee was requested to refuse the application.

In response to the issues raised by the objectors and in answer to a further question, the Assistant Director explained that:

- The application approved in 2014 did not have a condition in relation to R1 status attached.
- It was proposed that, if permission was granted, a condition on the achievement of R1 certification be included as set out by the Secretary of State (in respect of the Bilsthorpe RDF plant case).
- In terms of the emissions related to the waste plastic melting/bio fuel element, the Environmental Permit process would address this issue.
- The Environmental Impact Statement gave an overview of the relevant issues and the total emissions and was not 'signed off' by the LPA but would be considered by the Environment Agency as part of the permitting process. It was reiterated that the site could not operate without this permit.

A representative of Bingley Town Council also spoke in objection to the development:

- The Town Council recommended that the application should be refused.
  - The proposal would lead to a large number of vehicle movements causing noise and pollution.
  - This would be a large facility that would be visible for miles. It would have an impact on the local heritage and visual amenity including that of Riddlesden and the Leeds Liverpool Canal.
  - It was believed that toxins would be dispersed to a wide area.
  - There was a lack of information and this was particularly important in respect of the issues of public health and air quality.
- It was considered that incineration was not an acceptable way to deal with

waste. It was questioned what would happen if the facility was not built.

- Infant mortality had doubled in the area around Colnbrook (in Slough) further to an incinerator development nearby.

A Keighley Town Councillor made the following comments:

- The Town Council was concerned about the damage that would be caused to Keighley and the surrounding area by this larger application. It would be better to build a smaller facility and see if it worked.
- The damage to the properties at The Croft would be substantial. There would be a reduction in the value of these houses and residents' quality of life would be affected, they would have to live with this development.
- There were already issues in and around Keighley and its town centre with traffic flow. The proposed visitor's centre would potentially bring people into the town but would exacerbate the traffic problems.
- It was not believed that the development would benefit the people of Keighley.
- Virtually all the old mill chimneys had gone but it was now proposed to erect this stack; the smoke would be seen for miles. It would be seen from Ilkley and Rombalds Moor; Keighley did not want to be known for that reason.
- It was understood that if something did go wrong 48 hours was permitted to pass before the facility had to shut down.
- There was a nursery and a large number of residents in close proximity and a sports facility directly opposite the site.
- It was questioned whether this was appropriate next to the gateway to the Bronte legacy.

In response to a question about the impact on highways the Assistant Director said that the Transport Assessment had taken account of existing movements at the main junctions and the impact of this development in terms of both HGVs and cars. There were no concerns in respect of capacity during the peak hours. The flows were very low and the pattern of HGV movements and the shift pattern of employees meant that the traffic would not affect the peaks, It was noted that major schemes seeking to resolve the existing traffic issues in Keighley were being progressed.

A Ward Councillor spoke in objection to the application:

- A number of questions and concerns had been raised by objectors in respect of R1 status and the Environmental Impact Assessment.
  - The 2015 application had been refused on the grounds of visual and residential amenity and it was considered that very little had changed.
  - This was considered to be the wrong scheme in the wrong place; it constituted overdevelopment.
  - The technical report stated that the 'development could be perceived as part of the wider urban sprawl' but it was questioned by whom?; the site was surrounded by Green Belt land and the Aire Valley was a 'green lung' which should not be jeopardised.
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- The development would cause serious detriment to residential amenity. It

would also cause harm to the setting of a heritage asset; East Riddlesden Hall which was a Grade I listed property located 600 metres from the site. Historic England and the Council's Conservation Officer agreed that harm would be caused. The Hall currently attracted 40,000 visitors a year not just to the hall and gardens but to adjacent land which had open access.

- There would be an impact on the Leeds Liverpool Canal, St Ives, Druids Altar, the River Aire, which was used for fishing and Bronte Country.
- There was a nursery located 500 metres from the site which had recently been refurbished and provided specialist provision for children with special educational needs.
- 800 objections had been received to the proposal, many on health grounds. The Council had a responsibility for public health.
- He had been informed that in an area of London, Chingford Green, which was close to a large incinerator the infant mortality rate between 2003 and 2011 had been more than double the national average which was not what you would expect for an affluent area.

The Assistant Director clarified that the site was allocated for employment use and that case law confirmed that property value was not a material planning consideration in its own right.

The applicant's agent and their technical advisor on emissions spoke in support of the application:

- The background to the application was set out within the Assistant Director's technical report.
- Planning permission had been granted in 2014 and a particular French plant manufacturer had then been selected to work with the UK based construction company. This company had a strong ethos in terms of the recruitment of local labour and co-operation with Trades Unions.
- A number of similar plants, built by the same contractors, had received approval from other local authorities nationwide and were operational.
- In 2015 an amended application had been submitted in respect of the envelope of the building. This had been refused for reasons associated with height, massing, form, finish, design and scale. Measures had been taken to address the Committee's concerns as part of this application and paragraph 14.3 of the officer's report outlined the main changes.
- The current design was a further development of the approved 2014 application. Although 7.2% larger in volume than that proposal it was 11.1% less than the refused (2015) application.
- When the 2015 application had been considered Members had viewed a sample of materials that they had considered to be inappropriate. The proposed materials had been discussed at length with the planning officer and visual images were now provided.
- There had been no reference to emissions, the plume or air quality within the refusal of the 2015 application. However, it was respected that the objectors had concerns in this regard. All the expert consultees were satisfied and the issue of the necessary Environmental Permit was within the remit of the Environment Agency not the Council.
- If it was not possible to operate within the relevant regulations it was questioned how it would be possible to do so in the eleven other areas where



- such facilities were sited.
- The location of the site was advantageous in terms of proximity to Keighley's primary sub-station at Dalton Lane and adjoining land which was the subject of applications for a Data Centre and Battery Store. These would be powered by energy generated by this plant and this development would be the first one of its kind in Yorkshire and the Humber.
  - The scheme represented a total capital investment of £160 million with consequent benefits for the local economy.
  - This was a suitable site with an extant permission and this application was a revised proposal.
  - It was considered that the applicant's commitment to deliver the scheme had been demonstrated and officers had concluded that the reasons for refusal had been addressed.
  - The assessment of air quality, plume visibility and health risk had been taken very seriously.
  - In terms of air quality, computer modelling had been used to assess the dispersal of emissions and the results had shown no significant effect. A plume plotter website had also been used. Results had not indicated anything that would cast doubt on the conclusions of the Air Quality Study and were well within permit limits. There would be no effect from either the plant or associated traffic. The studies had taken into consideration vulnerable members of society and account had also been taken of the plastic melting element of the proposal.
  - The location in a valley was by no means unique; there were similar situations in other parts of the country and this had been taken into account when undertaking the modelling.
  - The influence of temperature inversion could be a cause for concern with ground level emissions but was less so for high level sources as they would be discharged above or close to the inversion level and would then remain above it.
  - The visibility of the plume was caused by white water vapour only. This could be visible for several hours a month, approximately 17% of daylight hours; this was less than previously proposed.
  - Detailed analysis had been undertaken of the risks to health. Public Health England had concluded that the risk was likely to be very small.
  - The Environment Agency had refused to issue permits in the past and would take action if they were not happy with a facility.
  - The statements in relation to infant mortality rates were untrue. Concerns about effects on asthma were also unfounded. There was no discernible effect on health.
  - The concerns were understood and it had been ensured that the facility was properly designed.

They responded to questions from Members:

- A number of similar facilities were located in residential areas and some in agricultural settings.
- He had also been responsible for the Air Quality Study submitted with the previous application and this had used the same environmental benchmarks.

There were some slight differences but essentially no difference in the environmental impact and the results were very similar.

- The zero or very low emission figure applied to both methane and ethane. There may potentially be a slight impact in environmental terms but no impact on health.
- The applicant planned to utilise the best available technology and the plastics melting technology was so sophisticated that there would be no emissions.

The Assistant Director also responded to further questions:

- It was understood that the plume would be similar in colour to the one emitted from a rendering plant located within the district.
- The moisture content of the plume had been reduced so that it would only be visible for 17% of daylight hours. Other processes may well contain a higher water content so would probably be visible for more of the time.
- The 2014 permission would also require the grant of an Environmental Permit.

Following a visit to the site and the surrounding area, the Assistant Director gave the following responses to additional questions:

- The fencing on the site was as had been approved as part of the 2014 planning permission and was to be retained.
- The developer had been requested to supply examples of the proposed cladding but had said that as the material was a bespoke product it was not available.

Members expressed the following views:

- There was not a great deal of difference in the size in comparison to the previous application, that had been refused on the grounds of visual amenity, and the inclination was therefore not to support the application.
- There was concern about the safety of Keighley residents and the people who lived close to the site. Health issues were very important and there was a school near by.
- Whatever decision was made an incinerator could be built on the site as planning permission had been granted and building had commenced. This scheme was preferable to that previously approved; it would include a condition in respect of the achievement of R1 status.
- If the Committee voted for approval the Secretary of State had the opportunity to call the application in for determination.
- It was not satisfactory that no sample of the proposed cladding material had been supplied for Members to view.
- Approval of materials could be the subject of a condition.
- Permission had been granted for an incinerator on this site in 2014.
- The recovery of energy from waste could be viewed as a positive rather than the use of fossil fuels.
- The potential impact on health had not been confirmed. A refusal on that ground would not be sustainable. There was existing case law and it was not for the Committee to second guess the Environment Agency.
- In respect of the question of visual impact; it was believed that there would not be significant harm to East Riddlesden Hall and there was therefore no need

to show substantial public benefit. The inclination was that there was net benefit. It was more about the impact on residential properties.

- Planning permission had already been granted for such a use and work had commenced on site. The diameter of the stack had been reduced and this proposal would have an R1 status condition. The matter would also be considered by the Secretary of State.
- The company would have to go through the Environmental Permit process.
- If granted, a condition should be included requiring samples of the materials to be checked and approved to ensure that they were appropriate.

It was noted that there was a proposed condition in respect of the approval of the colours and finishes to be used and that this could be amended to ensure that this happened.

Further to which it was:

**Resolved –**

- (1) **That the application be approved for the reasons and subject to the conditions set out in the Assistant Director - Planning, Transportation and Highways' technical report further to the amendment of Conditions 5 and 30 as set out below:**

**HGV hours when facility operational**

**5. Heavy goods vehicles, including those for the transportation of waste, biofuel and any other materials (including Incinerator Bottom Ash (IBA)) shall only enter or leave the site between 07:30-18:00 hours Monday to Friday and 07.30–12.00 Saturday. No transportation shall take place on Sunday, bank or public holidays.**

**Reason: In the interests of residential amenity and to accord with policies UR3, P7, P8 and P11 of the Replacement Unitary Development Plan; paragraph 123 of the National Planning Policy Framework; and paragraphs 1 and 7 of the National Planning Policy on Waste.**

**Details colour finish etc**

**30. Notwithstanding any details shown on the permitted plans, on completion of the acoustic fence and prior to any other development commencing details of the colours and finishes to be used on all the buildings and stack, *including full sample panels*, shall be submitted for approval in writing by the Local Planning Authority before construction commences, and the development shall thereafter be constructed in the approved colours and finishes. The details shall include future maintenance of the colour, finishes and materials.**

**Reason: To ensure the use of appropriate materials in the interests of visual amenity and to accord with Policies UR3, D1 BH4A and BH7 of the Replacement Unitary Development Plan; paragraphs 128,129 and 132 of the National Planning Policy Framework and paragraph 7 of the National Planning Policy on Waste.**

**and an additional condition in respect of:**

Prior to the development hereby permitted being brought into use, the operator shall submit to the Waste Planning Authority for approval in writing, verification that the facility has achieved Stage R1 Status through Design Stage Certification from the Environment Agency. The facility shall thereafter be configured in accordance with these approved details. Once operational, alterations to the processing plant may be undertaken to satisfy Best Available Technique or continued compliance with R1.

- (2) That the grant of planning permission be subject also to the completion of a legal planning obligation under Section 106 of the Town and Country Planning Act 1990, or such other lawful mechanism for securing the heads of terms as may be agreed in consultation with the City Solicitor, in respect of:

the payment of a commuted sum of £8,200 for the undertaking of tree planting at East Riddlesden Hall,

the legal planning obligation to contain such other ancillary provisions as the Assistant Director - Planning, Transportation and Highways (after consultation with the City Solicitor) considers appropriate.

**ACTION:** *Assistant Director - Planning, Transportation and Highways  
City Solicitor*

67. **GREENHOLME MILLS, IRON ROW, BURLEY IN WHARFEDALE**  
**Wharfedale**

Previous references: Minutes 52 (2015/16) and 50 (2016/17)

The Assistant Director - Planning, Transportation and Highways presented a report (**Document “AG”**) in relation to a full planning application for alterations and extensions to existing mill buildings to create a mixture of residential and commercial uses including a crèche, spa/gym and restaurant together with 20 new build houses and 6 new build apartments and ancillary infrastructure at Greenholme Mills, Iron Row, Burley in Wharfedale – 15/03339/MAF.

The report explained that the application had been granted planning permission previously, in February 2016, further to consideration by this Committee, on 4 November 2015, and the completion of an associated Section 106 legal agreement. However, further to an application for a Judicial Review, a Consent Order had been made on 29 June 2016 which had the effect of quashing the permission thus necessitating its reconsideration.

The application had therefore been submitted to the meeting of this Committee

held on 6 October 2016 when it had again resolved to approve the application. However, this decision had been made, in part, on the basis of policies set out in the emerging Local Plan Core Strategy (LPCS). The LPCS currently had no legal effect as a consequence of a 'Holding Direction' which had been issued by the Minister of State for Housing and Planning, under Section 21A of the Planning and Compulsory Purchase Act 2004 (inserted by Section 145(5) of the Housing and Planning Act 2016), on 10 October 2016. The report now before the Committee therefore reflected the altered status of the LPCS.

The report also stated that, as the site was within the Green Belt, the Secretary of State would have to be consulted to ensure that he was still content for the application to be determined by the Council as Local Planning Authority.

The Assistant Director reported on the substance of additional representations received further to the publication of his written report. One, from the Parish Council, expressed support for the redevelopment of the mill. The other, in objection, raised various issues including reference to the underlying policy intentions of both Policy E4 and the wider Replacement Unitary Development Plan (RUDP) and the status of Core Strategy Policy EC4 and the evidence base underlying it in respect of the retention of employment land, and that the development should be put on hold until the Holding Direction on the Core Strategy was resolved.

It was noted that all Members of the Committee had previously visited the site.

The Assistant Director responded to questions from Members as follows:

- Limited weight could be placed on the version of the Burley in Wharfedale Parish Council Neighbourhood Plan that had been available at the time the report was written. It was understood that the process had moved forward since this time so slightly more weight could now be placed on it. The development of this plan would not be held up by the Holding Direction.
- The plan had been lodged with the Local Planning Authority and was currently in the process of being validated. An Independent Planning Inspector would be appointed to consider if the Plan was sound or if modification was required. It would then be publicised and a local referendum undertaken to seek endorsement by the local community.

An interested party made the following comments:

- The development would be an incursion into the Green Belt but, if kept to a minimum and proportionate to the amount of brownfield land, this appeared to be a good scheme.
- Assurance was sought in relation to the maximum possible measures being undertaken to eliminate right turn manoeuvres into the site from the A65.
- Would access to the village for people with disabilities be provided?
- Burley in Wharfedale Parish Council supported the scheme.

The Assistant Director said that:

- Disability access issues were a matter that was primarily addressed by Building Regulations. New development should achieve the latest standards for people with disabilities and these standards were regularly strengthened.
- The whole of the site was within the Green Belt with the majority of it being previously developed. There was an area of 'greenfield' land between Great Pasture Lane and the stone wall at the curtilage which would be landscaped and become part of residential gardens with some building on it. (Members had specifically looked at this piece of land during their previous visit to the site).
- The access arrangements had been thoroughly considered and a condition would be included in relation to the prevention of right hand turns into the site.

The applicant's agent spoke in support of the application:

- It was now fifteen months since this proposal had originally been granted planning permission and this was the third time the same application had been considered by the Committee due to the Judicial Review (which was believed to have been commercially motivated) and the Holding Direction. The Council's previous decisions had been supported by the Government Office.
- The applicant had continued to work with officers throughout the process and supported the re-submission to the Committee in light of the delay to the Core Strategy and there being no timescale to its resolution.
- The previous resolutions to approve the application were welcomed.
- The failure to secure planning permission had cast uncertainty over the applicant's plans.
- The Mill complex comprised a number of high quality buildings with a strong connection to the village.
- There was a risk to the applicants' investment due to the delay and increased damage and criminality at the site.
- The design was the same as had previously been approved.
- The development would provide 94 valuable new homes in a high quality mixed use development on brownfield land in the Green Belt.
- The scheme did include elements of employment use.
- A new approach was needed to arrest the decline of the buildings.
- The applicant was keen to connect the site to Burley and provide linkages with the river frontage.
- Communications had been maintained with the local community and there was consistent support for the development and a strong affinity with the site.
- The site was allocated for a mixed use development in the Neighbourhood Plan for Burley.
- The applicant had agreed to make significant contributions to local infrastructure secured by a Section 106 legal obligation.
- The scheme was considered to be well designed and inclusive. It would retain the character and distinctiveness of the site.
- High quality landscaping would be included.
- The scheme would make a positive contribution to the Green Belt by arresting the dereliction of the mill.
- It would also reduce the pressure to build housing on other greenfield/Green Belt sites.
- The scheme would make a contribution to community cohesion.
- Continued uncertainty around the application was a significant planning risk.

Members made the following comments:

- The application was before the Committee again due to a technicality.
- It had been given unanimous support previously.
- A lengthy site visit had been undertaken on the previous occasion.
- This was a good scheme and the officer's recommendation was supported.
- There were concerns in respect of damage and anti-social behaviour affecting the site.
- This would retain a magnificent building.
- The local community had expressed support for the proposals.
- It was hoped that the development could commence at the earliest possible opportunity.

**Resolved -**

- (1) That the application be referred to the Secretary of State for Communities and Local Government under the provisions of the Town and Country Planning (Consultation)(England) Direction 2009 and, subject to him deciding not to call-in the application for determination, it be approved for the reasons and subject to the conditions set out in the Assistant Director - Planning, Transportation and Highways' technical report.**
- (2) That the grant of planning permission be subject also to the completion of a legal planning obligation under Section 106 of the Town and Country Planning Act 1990, or such other lawful mechanism for securing the heads of terms as may be agreed in consultation with the City Solicitor, in respect of:**
  - (i) On-site affordable housing provision of 6 units at a level of discount on the open market value of the properties necessary to allow disposal of the properties to a Registered Social Landlord,**
  - (ii) The payment of a sum of £93,415 to the Local Planning Authority for the purpose of upgrading the existing educational infrastructure at Menston Primary School or Burley Oaks Primary School,**
  - (iii) The payment of a sum of £120,660 to the Local Planning Authority for the purpose of upgrading the existing educational infrastructure at Ilkley Grammar School,**
  - (iv) The payment of a sum of £21,334 to the Local Planning Authority for the purpose of improving recreational infrastructure; to be used either towards the delivery of a new Multi Use Games Area on land to the west of Iron Row or for drainage works, footpath works and fencing at Iron Row Recreation Ground and Burley Park,**
  - (v) On-site Recreation/Open Space Provision:  
(a) Provision of a 'Public Plaza and Gardens' in the area shown**

on the 'Landscape Management Plan', to be made available and accessible for public use in perpetuity in accordance with details to be approved in writing by the Local Planning Authority;

(b) Provision of the 'Riverside Walk' in the area shown on the 'Landscape Management Plan' to be made available and accessible for public use in perpetuity in accordance with details to be approved in writing by the Local Planning Authority;

(c) Approval of details and implementation of a plan for the management/maintenance of the Public Plaza and Gardens, Riverside Walk, Woodland Areas and Wildlife Meadows, as shown on the 'Landscape Management Plan',

the legal planning obligation to contain such other ancillary provisions as the Assistant Director - Planning, Transportation and Highways (after consultation with the City Solicitor) considers appropriate.

**ACTION:** *Assistant Director - Planning, Transportation and Highways  
City Solicitor*

**68. BRIDGEHOUSE MILLS, BRIDGEHOUSE LANE, HAWORTH  
Worth Valley**

The Assistant Director – Planning, Transportation and Highways submitted a report (**Document "AH"**) in relation to a planning application for a mixed use development at Bridgehouse Mills, Bridgehouse Lane, Haworth – 15/07479/MAF and an associated application for Listed Building Consent for partial demolition and alterations to this Grade II Listed building complex – 15/07481/LBC.

The report explained that the development would comprise the change of use, alteration, conversion, extension and partial demolition of the existing mill buildings to develop 45 retirement living apartments; the construction of 77 new dwellings including associated access arrangements; the construction of an extension to the existing industrial building accommodating Airedale Springs; the construction of a new factory for Wyedean Weaving; junction improvement works; landscaping works; flood water storage works; provision of parking and links to public footpaths.

The report stated that, as part of the site was within the Green Belt, if the Committee was minded to approve the planning application (15/07479/MAF) the Secretary of State would have to be consulted to allow him to 'call-in' the application for determination if he considered this to be necessary.

In response to questions from Members, the Assistant Director indicated on the plans and photographs which parts of the mill goit had already been lost, those that would be lost as a result of the proposed development and the part that would be retained, exposed and interpreted. He also explained that:

- 38 of the 122 dwellings proposed would be sited within the Green Belt.
- It was not known how long the Eastern mill buildings had been empty. Most of the Eastern building was unoccupied. A full survey of the state of the building



and various structural surveys had been submitted so the condition was known and parts had been deemed to be unsafe. Historic England had also surveyed the buildings.

- The keystones in the archway (at the entrance) had slipped. There was a culvert underneath the area which had collapsed and there had been significant differential movement.
- There was an immediate need for remedial work to be undertaken to make the building safe.
- Flood modelling had been undertaken by the applicant. The culvert under the railway line was a restricting point. The storage that would be provided upstream would compensate for the area being built upon with a net nil effect upon flood risk downstream and no increase in risk in the immediate vicinity.
- The drainage system would connect into Bridgehouse Beck with flow at a limited rate of 5 litres per second per hectare mimicking what currently came off the site.
- Remedial work had been undertaken to the building after a fire in 2001 but full reinstatement had not been possible and the upper floor had been lost. This would be reinstated as part of this application along with associated features.
- A phasing plan would be required; the new industrial building would have to be provided, to allow the relocation of the existing manufacturing company, prior to the mill buildings becoming fully vacant.

A Ward Councillor was in attendance at the meeting. In the interest of transparency she declared that she lived in Haworth but would not be directly affected by the development. She then made the following comments:

- The application would lead to 38 houses being built within the Green Belt and it was not believed that the 'very special circumstances' required to permit such development had been demonstrated in this case. This appeared to be proposed for purely financial reasons.
  - A review of the Green Belt was being undertaken and it would be premature to allow this development to take place.
  - The scheme would involve changes to the junction of Brow Road and Bridgehouse Lane leading to a loss of three parking spaces that were well used by customers of nearby local businesses. No mitigation had been proposed. In addition this junction was used as a turning place for HGVs and buses, it was questioned what the impact would be if this were no longer possible?
  - The proposed access through a single track archway was a safety concern. How would emergency access be achieved if the archway became obstructed?
  - The site was proposed to be a mix of residential and industrial uses and the access would have to accommodate all the associated traffic.
  - The proposals made by Highways Development Control in respect of the internal access roads had not been included so the Council would not adopt these roads; this could lead to problems in the future in respect of maintenance.
- 
- The improvements to the design from the initial plans were welcomed but the proposed three storey new properties with roof terraces were out of keeping

with the character of Haworth. Inappropriate development near to the Conservation Area could have a detrimental impact on its character and setting. It was considered that the houses were of a suburban design and insufficient effort had been made to ensure that they blended into the village.

- Bridgehouse Mill was listed and any development adjacent to it should not harm its setting. Historic England had raised concern in relation to the proposed additional housing affecting both the mill and the Conservation Area.
- There was considered to be a lack of clarity in respect of the iron footbridge and any proposed works to it.
- The Keighley and Worth Valley Railway ran alongside the site and the proposed three storey suburban properties would overshadow it. The last view of Haworth from the train would be of a modern housing estate, this was not in keeping with the village's heritage status.
- The site was within Flood Zone 3. The proposal included a plan to create a park area to act as a recreational facility but also a water storage area. This was not considered to be safe. If the land flooded contamination would be left behind. The Council had not agreed to undertake the maintenance of this area and there was no maintenance agreement in place; this could lead to environmental, health and safety and flooding issues.
- Building on the flood zone was a major concern for local residents and businesses that had suffered flooding in the recent past. It was believed that it could exacerbate flooding further downstream.
- All the existing trees were proposed to be removed and they contributed to reducing flooding. The design was considered to be poor with no plans to provide landscaping to soften the impact of development and help it to blend into the village.

The Assistant Director explained that:

- Planning applications could be submitted at any time and the Council had a duty to consider each on its merits. There was no timescale for the review of the Green Belt to be concluded and it would not be possible to postpone a decision on this proposal indefinitely.
- Officers considered that very special circumstances had been demonstrated to justify development in the Green Belt.
- The Council's Architect Planner had been involved in the design process.
- A number of different options had been considered as part of the pre-application process. The principle of the design was to provide a strong building line fronting onto the beck with no space for residential clutter. The proposed building line would reflect development in the area and reference an industrial feel rather than a more suburban character.
- Two and a half storeys were proposed in order to give some presence and massing to the development. It was considered that the design was appropriate to the character and setting.
- It was acknowledged that there would be some harm to the setting of the listed building but a viability appraisal had been submitted with the application that showed that the project was not viable without the inclusion of the new build housing. The appraisal had been assessed and deemed acceptable by the Council's Economic Development Section.
- Future Maintenance would be secured through a Management Agreement.
- The Flood Zone 3 designation was established by the use of the Environment

Agency Flood Map but this was quite a rudimentary tool. The applicant had provided detailed mapping which had indicated that less of the site was within that zone than indicated by the national map.

- A flood compensation area would be provided that would mean that the area was only at risk in a one in 100 year flood event.
- A management company would be responsible for future maintenance and clearing up the site after any flood event.
- In terms of the railway bridge culvert this was a controlling factor of flow downstream and flows would not be made worse by this development.
- Further discussion had taken place with regard to the internal access roads and over 90% would reach adoptable standards.
- A second point of access was not required for a development of this size and a separate pedestrian access would be retained.
- The archway would be raised.
- Two of the existing three parking spaces at the junction of Brow Road would be lost in order to accommodate a mini roundabout but it should be noted that there was no right to park on the highway. In terms of HGV turning manoeuvres, if this was quite a rare movement and the assessment concluded that the layout would function safely for 98% of the time then a balanced judgement had to be made. Overall it was considered that the proposed junction arrangement would function safely.
- The indicative design showed the use of a raised thermoplastic island which would permit extraordinary loads to manoeuvre as necessary.

A Parish Councillor, tabled photographs illustrating the site post flooding and put forward the following points:

- Flooding was of concern as was future maintenance of the land. A lot of silt was carried down the beck and there was concern that the storage would get filled up and allow flooding to re-occur. The proposals may reduce the problem initially but for how many years?
- There had been three major floods of the area in a 70 year period; two within the last 12 years.
- Comments had been made within the Flood Risk Assessment in respect of this development flooding if there was a structural failure of the reservoir upstream.
- The archway (at the point of access) and there being only one point of access was a real concern; how would egress be achieved in the event of a fire or flood? It was also not understood how a fire engine would reach the site.
- Haworth was a heritage site, a jewel of the area, and the quality of design was very important within or next to a Conservation Area which this site abutted. As proposed the properties would tower over the beck; they would look like blocks of flats and would be out of character with the rest of the village. It was not understood why they were to be placed immediately adjacent to the beck.
- Half the new housing would be within the Green Belt.
- The officer's report said that the applicant was unable to afford to contribute towards educational infrastructure. Had having fewer houses on the site been discussed. It was considered that units on brownfield land were acceptable but the others would cause harm to the Green Belt.
- The Design Officer had expressed the view that the scheme constituted overdevelopment of the site and the Parish Council agreed.

- The development would also affect the adjacent railway.

In response to the points raised and additional questions from Members, the Assistant Director explained that:

- The maintenance and management of the recreational/flood storage area would be secured through a Section 106 legal obligation and specific reference could be included in respect of clearing the site further to any flooding and the regular removal of silt, if this was considered appropriate.
- Different opinions had been expressed in relation to the design but he considered the current proposals to be appropriate.
- The viability appraisal demonstrated that the proposed level of development within the Green Belt was necessary.
- The beck was classified as a main river so the flood storage area would be under the control of the Environment Agency and it would be their responsibility to ensure that it operated as it should.
- In terms of the potential failure of a reservoir, these structures were designed to a level of 1 in 10,000 chance of flooding. They were all owned and maintained by Yorkshire Water
- Current standards required the provision of one point of access for up to 200 units; this proposal was for 122 and there was an additional pedestrian access.
- The Fire Service carried hoses of sufficient length that even if the tender was only able to reach the archway they would still be able to gain the necessary access.

The Council's Economic Development Officer confirmed that the proposed volume of development was necessary in order to generate the income required to undertake refurbishment of the mill and the work to the culvert.

A representative of the Keighley and Worth Valley Railway (KWVR) raised the following points in opposition to the application:

- The KWVR was a leading heritage railway which carried more than 100,000 passengers a year.
  - It was an important location for television and films and was the second most visited tourist attraction in the district. It contributed £8.5 million to the local economy.
  - The railway relied on income from visitors and was run by volunteers.
  - The site ran parallel to the railway line and was only separated from it by the beck; the development would therefore have a significant visual impact on it.
  - There was no objection in principle to redevelopment of the mill site but there was to the extension of the development into the Green Belt and the unsympathetic design proposed.
  - The original objection from KWVR had not been included in the report.
- 
- There were two key issues; there must be very special circumstances to justify

development in the Green Belt and the Local Planning Authority (Local Planning Authority) had a duty to enhance and preserve the Conservation Area and listed buildings. The applicant asserted that the costs of restoring the listed buildings was sufficient but this was a matter of judgement. English Heritage had strongly recommended that the Local Planning Authority consider if the benefits outweighed the harm; the Council's own Heritage Officer said that they did not.

- The viability relied on a lot of development outside the original site.
- The level of the site had been artificially raised over the last few years.

Two other objectors spoke briefly with the following concerns:

- Access and egress for people with disabilities needed to be considered.
- The scheme would restore the old mill and looked good.
- Had there been a fire risk assessment in respect of people with impaired mobility?
- The re-positioning of the bus stop was of concern.
- There would be a loss of privacy for an adjacent bed and breakfast business. In the original plans windows on the East elevation had been shown as being of obscure glass but were not so on amended plans.
- The front elevation of the mill would also have a detrimental impact on this property.
- The arch was to be raised to accommodate larger lorries but how would these mix with the residential use?

The Assistant Director said that:

- The bus stop was proposed to be relocated 7 metres to the west and would be no less accessible.
- It was understood that the windows to the east elevation were to be obscure glazed but a condition could be imposed in this regard.
- Accessibility was addressed as part of the Building Regulations process. There would be detailed discussion with the Fire Service at the time that the building control plans were drawn up and a Fire Strategy would be produced. It would be possible for a fire engine to pass through the archway.
- The West Yorkshire Fire and Civil Defence Authority had been notified of the application on two occasions and no comments had been forthcoming.
- This was no different to many other developments with a single point of entry other than there was an archway over the access point.
- It had been requested that the height of the archway be raised to reduce the likelihood of refuse vehicles hitting it not to facilitate the access of larger commercial vehicles.

The applicant's agent spoke in support of the application:

- Paragraph 187 of the National Planning Policy Framework (NPPF) stated that Local Planning Authorities should work proactively with applicants to secure developments that improved the economic, social and environmental conditions of the area.
- Numerous amendments had been made to this scheme in response to the issues raised and further to negotiation.

- Listed buildings needed to be in use and regularly maintained to ensure their future and unfortunately this had not happened in this case. The problems were compounded by the fire which had led to the loss of the upper floor.
- The application now under consideration proposed bringing the buildings back into use, restoring the lost upper storey and extensive repairs to the windows and the arch at the entrance (which had been damaged due to the failure of the existing culvert). The arch would also be raised to facilitate access for larger vehicles visiting the site.
- Historic England had no objections in respect of the proposals for the listed buildings.
- The scheme would also provide an extension for an existing business and a new purpose built unit for another business located on the site. This would facilitate them staying in the local area where most of their workforce was based.
- The 122 dwellings would make a contribution towards the district's housing needs, as explained within the officer report.
- The concerns raised in respect of the design of the houses, the use of Green Belt land and flooding had been addressed by the Assistant Director in his technical report.
- The views of the Parish Council, the KWVR and other interested parties were understood but in the absence of public sector funding for the maintenance of listed buildings this fell on the private sector. It would also be the private sector who would have to fulfil the national and local need for housing.
- The costs associated with the listed building were significant and the scheme as a whole had to be viable. The Council's Economic Development Service had confirmed that the viability appraisals submitted with the application were robust. The scheme came as a package.
- The proposed flood storage area would be developed as Bridgehouse Beck Park and would have open public access. In lieu of the Council being able to take on responsibility for the park and its future maintenance a Management Company would be set up to undertake this work and part of the contract would be to remove any debris in the event of there being water ingress to the park area. This would be secured through a Section 106 legal obligation.
- Agreement had now been reached with Highway Development Control in respect of the adoption of the roads within the site.
- Paragraph 173 of the NPPF was also relevant in this case in respect of viability and deliverability. If approved these objectives would be met and the benefits of this scheme, as negotiated over the last twelve months, would be delivered.

Members commented that:

- The scheme would achieve two objectives; the retention of employment in the locality and the retention of the listed mill. It appeared that there was an almost immediate danger of collapse of part of the mill and there was no public funding to allow repairs to be undertaken.
- New building within the Green Belt was not desirable.
- There was not considered to be any immediate danger in respect of the

collapse of the reservoir infrastructure and this was not an issue that only affected this site.

- Officers had considered, with the developer, the number of houses necessary in order to achieve the employment aims and the retention of the mills and it was believed that the only option was to approve their recommendations.
- The circumstances were difficult, building in the Green Belt required the demonstration of very special circumstances and the validity of the viability appraisals was an important consideration. The scheme would provide three dwellings for each one that would be on Green Belt land. The maintenance and protection of heritage assets was very important; if these buildings did collapse then this would be detrimental to the Conservation Area.
- It was important to ensure that the management company set up to maintain the park/flood storage area removed any debris and silt that may accumulate.
- This appeared to be a good use of existing listed buildings and a well thought out scheme. There would be some impact on the Green Belt but overall it was considered that there would be benefits for the local area including the retention of local employment.

Further to which it was:

**Resolved –**

**(i) 15/07479/MAF**

- (1) That the application be referred to the Secretary of State for Communities and Local Government under the provisions of the Town and Country Planning (Consultation)(England) Direction 2009 and, subject to him deciding not to call-in the application for determination, it be approved for the reasons and subject to the conditions set out in the Assistant Director - Planning, Transportation and Highways' technical report further to the inclusion of an additional condition as set out below:**

**None of the residential units to be formed within the existing Bridgehouse Mills buildings, as shaded in red on drawing 3901-02 PL01, shall be brought into occupation until details of the level of obscenity of the windows to be provided to the eastern elevation of the eastern building wing have been submitted to and approved in writing by the Local Planning Authority. The approved obscurely glazed windows shall be fully installed in accordance with the approved details before any of the residential units are occupied and the approved level of obscenity shall be maintained whilst ever any of the residential units remain in occupation.**

**Reason: To prevent overlooking, in the interests of amenity, in accordance with saved policy UR3 of the replacement Unitary Development Plan.**

- (2) That the grant of planning permission be subject also to the**

completion of a legal planning obligation under Section 106 of the Town and Country Planning Act 1990, or such other lawful mechanism for securing the heads of terms as may be agreed in consultation with the City Solicitor, in respect of:

- (i) The provision of 5 units at a discount of 20% on the open market value of the properties, subject to occupancy restrictions (properties to be offered to people who have not previously been a home buyer and want to own and occupy a home and who are below the age of 40 at the time of purchase) and appropriate restrictions being put in place to ensure that these starter homes are not re-sold or let at their open market value for five years following the initial sale,
- (ii) The maintenance and management of the Public Open Space and Flood Storage Area provided as part of the development and described as Bridgehouse Beck Park, in accordance with details which shall be submitted to the Local Planning Authority for approval in writing, such maintenance and management details shall include provisions for removing any silt and debris which accumulates within the Public Open Space and Flood Storage Area following a flood event and for the inspection of the Public Open Space and Flood Storage Area following any flooding event which occurs or, where no such event occurs in any given year, on an annual basis,

the legal planning obligation to contain such other ancillary provisions as the Assistant Director - Planning, Transportation and Highways (after consultation with the City Solicitor) considers appropriate.

(ii) 15/07481/LBC

**Resolved –**

That the application for Listed Building Consent be approved for the reasons and subject to the conditions set out in the Assistant Director - Planning, Transportation and Highways' technical report.

**ACTION:** *Assistant Director - Planning, Transportation and Highways*  
*City Solicitor*

Chair

**Note: These minutes are subject to approval as a correct record at the next meeting of the Regulatory and Appeals Committee.**

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER