

## Minutes of a meeting of the Regulatory and Appeals Committee held on Thursday, 7 February 2019 in the Banqueting Hall - City Hall, Bradford

Commenced 10.10 am  
Concluded 1.50 pm

### Present – Councillors

LABOUR	CONSERVATIVE	LIBERAL DEMOCRAT
Warburton Wainwright Amran Watson	Brown Cooke	Griffiths

Observers: Councillor Gerry Barker (Minute 80), Councillor Dale Smith (Minute 80) and Councillor Jackie Whiteley (Minute 80)

### Councillor Warburton in the Chair

#### 75. DISCLOSURES OF INTEREST

In the interests of transparency, Councillors Wainwright and Warburton disclosed that they had been Members of the Committee when the application concerning Land at Bingley Road, Menston (Minute 80) had been considered previously. They undertook to approach the amended current application with an open mind and to consider all the relevant material planning issues before making a decision.

In the interests of transparency, Councillor Amran disclosed, in relation to the item concerning Private Hire and Hackney Carriage Driver Suitability Policy (Minute 79), that he had extended family in the trade and he recognised a number of people associated with the report. He had not discussed the Policy with anyone nor expressed an opinion.

In the interests of transparency, Councillor Cooke disclosed that, in relation to the item concerning Private Hire and Hackney Carriage Driver Suitability Policy (Minute 79), he was a trustee of Cullingworth Sports Association and one of their tenants was a private hire company. He had not discussed the Policy with anyone nor expressed an opinion.

**ACTION:** *City Solicitor*

**76. MINUTES**

**Resolved –**

**That the minutes of the meetings held on 22 August, 13 September at 10am and 12pm and 4 October 2018 at 10am and 12pm be signed as a correct record.**

**77. INSPECTION OF REPORTS AND BACKGROUND PAPERS**

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

**78. MEMBERSHIP OF SUB-COMMITTEES**

No resolution was passed on this item.

**79. PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER SUITABILITY POLICY 2019**

The Strategic Director, Place presented **Document “AJ”** which sought approval to implement a new suitability criteria for Private Hire and Hackney Carriage drivers, which focused on the overall fitness and propriety of the applicants.

A representative of the Licensed Vehicle Surveys and Assessment (LVSA) explained that an unmet demand survey had been commissioned in January 2018, completed in July 2018 and a full report had been available in December 2018. He explained that the report gathered evidence to show if there was significant unmet demand in relation to Bradford’s 222 hackney carriage vehicles and then gave a presentation to Members.

In response to Members’ queries, the LVSA representative confirmed that the hackney carriage vehicles probably undertook contract work as they were wheelchair accessible. He stated that there was a great deal of spare capacity and it could be argued that 222 vehicles was more than required, however, reducing the numbers would not be an easy process and further licences could not be issued if some had been returned. Members noted that the availability of an ‘app’ had increased the demand in another city. The Chair then thanked the LVSA representative for the informative report.

The Licensing Service Manager informed Members that the policy proposed new driver suitability criteria in order to protect the public and work had been undertaken with other Local Authorities. Each case would be considered on its own merits and an Authority could depart from the policy if there were exceptional circumstances. An engagement process had been carried out in Bradford during November and December 2018, however, other Local Authorities had concluded their consultations on 18 January 2019. Members of the trade had been engaged via an on-line survey, which had been advertised in the Telegraph and Argus, letters had been sent to companies and road shows had taken place. The Licensing Service Manager reported that survey had closed at midnight on 15 December 2018 and 697 submissions had been received. In light of the survey results, the policy had been changed to reduce the ban period from five to three

years for minor offences. The policy was then recommended for approval, subject to any slight amendments that the Chair of the Committee deemed necessary following the outcomes of the other Local Authority consultations.

Members then posed questions and were informed that:

- Offences were categorised using the Driver and Vehicle Licensing Authority (DVLA) website and their opinion.
- There were 4,500 private hire and hackney carriage drivers.
- It could not be mandated that drivers should respond to the engagement process. Reminders had been sent, meetings with Trade Associations had taken place and road shows had taken place.
- 41 responses had been received from operators, which was 6% of the overall response.
- There had been sufficient resources and time allocated for the engagement process.
- Drivers had to have an email address to sign up for a licence. The engagement process had been promoted at meetings with trade representatives and operators and within the Telegraph and Argus newspaper to try and ensure that people were aware.
- The trade meetings had been held in the morning and early afternoon.

The Shop Steward of the Cab Section, Unite union was present at the meeting and addressed the Committee:

- He objected in the strongest terms possible.
- The proposal marginalised the taxi driving community.
- Was Bradford the main instigator for these combined Authorities?
- Public safety was a concern for Unite too.
- Drivers were licensed and they would not be granted one if anything untoward was in their records.
- The policy concentrated on public safety and protection against taxi drivers.
- Taxi drivers and their vehicles were condemned as being unfit.
- To divide the public was dangerous and divisive.
- He agreed in part with regard to the serious offences.
- Why did drivers have to provide a certificate of lawfulness?
- He was here for political justice.

A Member acknowledged that the drivers had concerns, however, as a Councillor his primary duty was to the public and they had to be consulted. He stated that officers had sought to establish public feeling regarding the driving of public licensed vehicles, the list of requirements was not problematic and he suspected that people would have said that the Council was not being tough enough. He indicated that he was disappointed with the speech from the Unite representative and was not clear what the objection entailed. The policy was about making people feel safe and excellent progress had been made. Other Members echoed the sentiments made and stated that the policy had been designed to protect taxi drivers.

The Chair confirmed that Councillors worked to protect the public, who were their priority and stated he was disgusted by the comments made. He explained that the policy protected drivers and operators and provided more safety for everyone in the District. Bradford had led on the initiative, however, it had been initiated by Leaders of the Local Authorities in West Yorkshire and York. The amendments made to Bradford's policy were minor and had been undertaken to protect the community and drivers. The Chair then recommended that the proposed policy be approved.

A Member concurred with colleagues and indicated that, as a previous lead on equalities, he had wanted to know what the drivers were dissatisfied with so that further work could be undertaken. If there had been any racial issues he would have challenged them and the hackney carriage and private hire drivers should look at the document in order to highlight any areas of concern. Another Member agreed with the aforementioned comments and believed that people had been given the opportunity to respond to the survey.

**Resolved –**

- (1) That the policy “Determining The Suitability of Applicants and Licensees as Drivers in Hackney Carriage & Private Hire Licensing” be approved.**
- (2) That authority be granted to the Chair of the Committee to liaise with the Portfolio Holder in light of any concerns raised by the West Yorkshire and York Authorities and to make any minor changes necessary to remain commensurate with the outcomes of their policy consultation.**
- (3) That the option to maintain the current limit of 222 hackney carriage licences be approved.**
- (4) That the rank locations with awkward angles for loading wheelchairs be reviewed.**

***ACTION: Strategic Director, Place***

**80. LAND AT BINGLEY ROAD, MENSTON**

Previous references: Area Planning Panel (Shipley): Minute 48(a) (2011/12), Regulatory and Appeals Committee: Minute 97 (2012/13), Minute 44 (2014/15), Minute 83 (2014/15)

The Assistant Director - Planning, Transportation and Highways presented a report (**Document “AK”**) in respect of the demolition of a steel frame agricultural building and small agricultural shed and the residential development of 133 dwellings, with associated infrastructure works and access, at land at Bingley Road, Menston – 17/04591/MAF

The Assistant Director - Planning, Transportation and Highways informed Members that the site sloped and had residential properties on the boundary. He confirmed that a footway would be provided onto the site from Bingley Road and off site highway improvements would be undertaken. The construction of 133 dwellings had been proposed with 30%, 39 units, for affordable housing. The scheme followed the previous application which had been refused in 2011 on the grounds of the inadequate drainage scheme and insufficient mitigation measures to offset the harm to the Special Protection Area. It was noted that since the publication of the report 191 objections and two representations in support had been received. The Parish Council had also submitted a report in relation to ground water advice. The Assistant Director - Planning, Transportation and Highways reported that discussions had been undertaken to ensure that the previous issues were resolved and an independent review of the drainage system had been carried out by the Arup Group. He confirmed that the applicant had now reached a position where the drainage scheme would not increase the flooding of the site, therefore, it was proposed that condition 5 be removed from the application. Natural England had been consulted with regard to the habitats regulations assessment and they had stated that any impact could be mitigated through a Section 106 Agreement. There was no evidence of the site being used by wildlife, however, the applicant had agreed to fund information panels at key access points. The Assistant Director - Planning, Transportation and Highways stated that the application complied with Council policies in respect of overshadowing and overlooking and would meet the Community Infrastructure Levy requirements. Members were informed that separate money would be made available for the highways works and the number of school places would be expanded where required. The application was then recommended for approval, subject to the Section 106 Agreement and the omission of condition 5.

In response to Members' questions, the Assistant Director - Planning, Transportation and Highways confirmed that the design of the proposed houses would be similar to those previously approved, there would be a single point of access and the layout would be comparable, therefore the scheme was considered to be appropriate. Analysis of the access point had been undertaken as part of the lapsed Derry Hill application, however, further work would be undertaken and the design of the development would limit the number of vehicles.

An objector was present at the meeting and made the following comments:

- He had previously been the Chair of the Menston Community Association.
- The scheme would not provide the right homes in the right place.
- Sajid Javid MP had stated that communities should have control.
- The proposed scheme was not suitable.
- The site was located high on the moor side.
- Inaccurate information had been provided by the applicant and agent.
- The travel plans stated there was space on public transport, but this was incorrect.
- The report indicated that primary school places were available and local and nearby schools, but there was not.
- Local children had to attend Guiseley Secondary School.
- How could Menston support the development?
- Only commuters would buy the proposed houses, which was the opposite

of the aim.

- 133 dwellings would generate 205 vehicle trips per day.
- A transport study undertaken by Bradford Council stated that each new dwelling would generate 8.49 journeys per day, therefore, 1129 trips per day would occur.
- Menston Parish Council had objected to the application.
- False information had been provided.
- The application required further consideration.
- If the ground water flooding was not addressed it would create issues for the other houses.

Another objector was at the meeting and indicated that the new Chartford Homes would be lower than the proposed site and there were no places at the local primary school.

In response to some of the comments made and further queries, Members were informed that:

- The train station was within an acceptable walking distance and there were proposals to improve the walking route.
- Industry standards had been used to calculate 205 peak hour vehicle movements and each unit would generate 8.49 trips over a 24 hour period.
- The Arup Group had been consulted and provided advice in relation to ground water flooding on the site. A thorough investigation had taken place over 12 months and the expert advisors were content that the risk would be reduced due to the robust nature of the design.
- The issues at the rail station were known. It was controlled by the West Yorkshire Combined Authority and could be influenced.
- The Council, via Children's Services, was responsible for providing additional school places and not the developer.
- It was not the developer's responsibility to provide local employment, however, more people in the community should provide a greater chance of business survival and start up.
- The distance to the station would be approximately one kilometre from the nearest point of the site.

A representative of the Parish Council was present at the meeting and raised the following points:

- JBA Consulting had provided the Parish Council with advice on the flood risk.
- JBA Consulting's report superseded the report by the Arup Group.
- The Arup Group had not included or reviewed all the available data.
- The site was riddled with boreholes.
- The Sirius Group's report in 2009 had identified boreholes and ground water within one metre of the surface.
- The ground water data diagram identified water sitting at less than one metre below the ground surface.
- Some of the springs on the site flowed all year round.
- The data provided in the report was from 2018, which had been a dry year.
- The proposed drainage plan directed water to the west and north of the

site.

- Properties would be flooded.
- Affordable housing would be located in areas of flood risk.
- The previous application had been refused and the applicant had not appealed, as they had not wanted the public to scrutinise the proposal.
- The Arup Group should be supplied with all the data so that they could review the situation.

The Council's Principle Drainage Engineer confirmed that he was aware complex nature of the site in relation to drainage and flooding. He explained that the Arup Group had been engaged via a tender process and information had been made available to them. With regard to the spring in the northwest corner, a drain had been proposed to collate the water off the site and a system to deal with the flood rate had been put forward that complied with Council policies. Members were informed that the exceedance flows for a high rainfall event would follow the existing route when the site was developed.

Members then questioned the representative from JBA Consulting and noted that:

- It was a complex site and the volume of water fluctuated. Concerns had been raised whether the water flow rate had been captured at its peak and if the proposed system could cope.
- Longer monitoring and in other areas on the site would have been welcomed.
- The foundations and below ground structures had not been tested with the proposed system.
- Previous reports had been considered.

A Ward Councillor was present at the meeting and stated that:

- The proposal was unsuitable.
- Regular incidents of flooding occurred.
- The surrounding economy did not support Menston residents.
- Commuter parking occurred some distance from the train station.
- It was doubtful that people would walk to the station as suggested.
- The train station was not accessible due to steps and the alternative would be to walk around to the Brooklands estate.
- West Yorkshire Combined Authority had requested funding, but it was not guaranteed and no improvements were planned for the Wharfedale line.
- Parking would be pushed into the village.
- There was a vague assumption that the CIL would pay for the additional school places.
- What work had been undertaken to see if extra school places were available?
- There would be more vehicles on the road.
- St Mary's Menston was a Catholic secondary school.
- There were fewer places available at Guiseley School for children from Menston due to new housing in the area.
- The application for housing in Burley in Wharfedale may not go ahead.
- Residents' lives would be disrupted.

The Assistant Director - Planning, Transportation and Highways responded to some of the comments explaining that the CIL was a substantial sum of money which would be allocated by Full Council and there was an overriding demand on school places that could not be ignored. He confirmed that funding had been sought from Network Rail and could not be discounted until the decision had been made. People chose whether to commute and the demand for a mixed type of housing made the scheme more sustainable. Members were informed that the developer would meet all the obligations in full and funds would be available to look at any issues. The City Solicitor stated that the Committee must make a decision in accordance with the Development Plan unless material considerations existed and acknowledged that the CIL would be paid in full.

Another Ward Councillor was at the meeting and reported that:

- Previous applicants had tried to convince the Committee that the issues could be overcome.
- Bradford Council had not completed the Strategic Flood Risk Assessment and employed others to provide expert guidance.
- Reports had previously been submitted by JBA Consulting and Eastwood and Partners.
- Specialist reports had been ignored.
- The report lacked the technical rigour provided by JBA Consulting's report.
- The map clearly identified that Menston was susceptible to ground water flooding.
- The Council would be agreeing with itself, which was disingenuous.
- Information had been provided to Drainage and Planning officers.
- Planning officers had been reluctant to accept the evidence from JBA Consulting.
- The figures provided were a tenth of those from JBA Consulting.
- An email had been sent to the Council's Principle Drainage Engineer on 2 February that raised concerns of flooding on the Chartford Homes site.
- A cautious view of the proposals should be taken.
- The application should be rejected.

The Council's Principle Drainage Engineer explained that the Strategic Flood Risk Assessment was currently being updated from the 2014 draft and looked at flood risk from all sources at a high level. It identified the area to be susceptible to ground water flooding, however, the developer would not be responsible for the existing issues but could not add to the problems. Members were informed that the Assessment informed the sequential test, looked at the existing flood risk and produced maps. It would, hopefully, be published in March and would highlight areas of flood risk. Any proposed development would have to undertake surveys, however, studies had already been carried out in respect of this application. The Council's Principle Drainage Engineer confirmed that an email had been received in relation to the Chartford Homes site and all the issues raised had been discussed and analysed over the past 12 months, therefore, the Council was still satisfied that the flood risk would not increase.

The final Ward Councillor then addressed the Committee and raised the following issues:

- It was expected that the application would be rejected due to ground water problems.
- If approved, the affordable housing provision of 30% should be re-distributed across the District and 15% should be subject to an employment condition.
- If approved, Ward and Parish Councillors should be consulted.
- What standard of home would be built, as they should be lifetime homes.
- The majority of the objections related to ground water flooding.
- An objection had been received from Chartford Homes in relation to the possible flooding.
- It was believed that Chartford Homes had embraced the system and had installed a constant drainage system on their site.
- The report from JBA Consulting refuted the report by the Arup Group.
- The Arup Group's report was based on incomplete information, as the Sirius and bore hole date was missing.
- The application should be rejected based on the ground water flood risk.

In response the Council's Principle Drainage Engineer stated that an independent expert advisor had concluded that the proposals were acceptable. He informed Members that the scheme on the adjacent site was a similar design to what had been suggested and included a surface water drainage system, land drainage and attenuation tanks.

The applicant's agent was present and informed the Committee that:

- He supported the officer's report and comments.
- The principle of development was well established.
- The layout of the scheme would be similar to the previous approval due to the topography of the site.
- The green spaces in the layout were due to the topography and drainage issues.
- The development would have a broad mix of one to five bedroom properties.
- The affordable housing would be clustered across the site and located where best suited.
- The design had not been a concern for the Council.
- Ecology and flooding had been the two previous reasons for refusal.
- A draft policy had been in place at the time of the previous refusal, however, the Council now had a clearer strategy and the wildlife issue had been resolved.
- Extensive dialogue had been undertaken over 18 months.

Drainage experts representing the applicant were at the meeting and explained that they had been working on the scheme for the past two years. The water issues had been raised and their role had been to review the drainage design only. Members were informed that the site suffered from poor water surface drainage, which was not a unique problem and a three fold approach had been taken in relation to the drainage scheme. The Bingley Road site was subject to downstream restrictions and a run off limit of 15 litres per second. The design had taken these constraints into account and provided large attenuation volumes which would be an improvement on the existing scenario. It was noted that the

drainage system had to manage the ground water and the flows onto the site had to be controlled and safely conveyed. A significant proportion of where the water would flow would be attenuated. The applicant's drainage experts stated that the proposed design was robust and would manage the flood risk from three key issues. There were a great deal of myths surrounding ground water and it could be seen on the site, however, its presence did not mean there would be a problem. Data had been collected and models tested over the past 18 months and during this time no other models had been put forward that supported the hypothesis that the ground water levels increased. Overall the water would be managed in an appropriate way.

Members posed questions to the applicant's agent and drainage experts who explained that:

- Only one model had been considered in conjunction with 18 months of data. Specific investigations had been undertaken into how the ground water system would work and ground water flooding could not occur on the site, as the spring was the natural discharge point.
- The amount of water had been assessed with mathematical models, which was standard practice and modest values had been suggested. The calculations had been carried out and the potential value in the infiltration of ground water was correct. The proposed scheme had gone above and beyond the water storage and also accounted for a one in one hundred event and 40% climate change. The ground water had been catered for within the surface water attenuation.
- Any water from the Bingley Road site would flow onto the new Chartford Homes development and none had occurred since the houses had been built. The drainage system covered the water flows, went beyond the requirements and would not make the flooding issue worse.

The Council's Principle Drainage Engineer then clarified that Yorkshire Water had been consulted and had not objected to the proposal. They had agreed a maximum peak discharge rate of eight litres per second, which the infrastructure could manage and would be responsible for the attenuation tanks. The applicant's agent added that it would not be necessary to defer the application until the Strategic Flood Risk Assessment had been published, as it reported on the information they had identified.

Representatives of the Arup Group were present at the meeting and responded to Members' questions:

- The reflection of the ground water flow was at a snap shot in time and needed to be taken into account with hydrographs.
- The ground water flows were well documented in relation to the spring in the corner of the site, as it was active all year round and the data from Envireau Water referred to this.
- They had been involved for 12 months and had considered the reports and raised similar concerns as JBA Consulting. The impact from the foundations was an issue and additional data had been provided. The ground water rise had been assessed and it peaked around February by a small amount. The ground water flooding on the site was limited, however, the surface water run off was a larger issue.

- They had been given full access to all the reports from previous applicants and drainage consultants.
- 12 months ago they had been identified that there was a lack of evidence to show that the flood risks had been understood or resolved, therefore, over the past year questions had been asked in relation to this and work had been undertaken with the applicant and engineers. Evidence had now been provided by the applicant that they recognised what was happening on the site and what it would look like in the future. The applicant's drainage expert had stated that the drainage system would reduce water flow off the site and this had initially been doubted, however, it was believed that a reduction could be achieved. This was due to the improvement of the land drainage system which would deal with water from the south west of the site and ground water.

The Council's Principle Drainage Engineer then answered further queries from Members:

- The Arup Group had not been engaged in the previous scheme, however, the proposals were not drastically different. Further analysis of water amounts and the movement of water had been carried out and both systems had hydraulic models. The analysis had strengthened the proposals and the Council was satisfied that they would work.
- Extra and larger pipework had now been provided and water flow rates, which had not been included in the previous application, had been made available. This information had confirmed that the system could cope.
- The previous system had not been proved to be suitable.
- The Council had been in consultation with the Arup Group for 12 months.
- Both sites had ground and surface water systems and the land drainage system for the Bingley Road site had been amended. The scheme had been designed so that no more water would be directed towards the Chartford Homes site.

In conclusion the Chair stated that having listened to all the evidence presented he would have difficulty in finding a reason to refuse the application. He then suggested that Ward and Parish Councillors should liaise in relation to the allocation of the CIL money.

#### **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, subject to the deletion of condition 5.**
- (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 30% affordable housing.**
  - (ii) the provision of information panels at access points onto the South Pennine Moors Special Protection Area (SPA) and Special**

- Area of Conservation (SAC).**
- (iii) **improvements to the local footpath network that link northwards from the development site into networks in Wharfedale.**

**And the implementation of off site highway improvements /Traffic Regulation Orders (TRO) as set out below:**

- (i) **£25,000 to provide dropped crossings and tactile paving along the route between the application site and Menston Railway Station.**
  - (ii) **£7,000 for a TRO to reduce the speed limit to 30mph on Bingley Road between the site access and Derry Hill.**
  - (iii) **£24,000 for measures around the Main Street/Bingley Road junction to include: a TRO to discourage the current indiscriminate parking near the junction; installation of six speed plateaus for the approaches to the junction; and installation of a Vehicle Activated Sign on Bingley Road next to the park.**
- (3) **That the Parish Council will use best endeavours to consult with Ward Councillors regarding the allocation of Community Infrastructure Levy (CIL) money.**

**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***

Chair

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

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