

## Agenda for a meeting of the Regulatory and Appeals Committee to be held on Thursday 21 June 2018 at 11.00 am or on the rising of the earlier meeting of the Committee, whichever is the later, in the Banqueting Hall, City Hall, Bradford

### Members of the Committee – Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Brown Cooke	Warburton Amran Wainwright Watson	Griffiths

### Alternates:

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Ellis M Pollard	Azam Godwin S Hussain Jenkins	R Ahmed

### Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.
- **A legal briefing for all Members will take place at 0915 in the Banqueting Hall on the day of the meeting.**
- Applicants, objectors, Ward Councillors and other interested persons are advised that the Committee may visit any of the sites that appear on this Agenda during the day of the meeting, without prior notification. The Committee will then reconvene in the meeting room after any visits in order to determine the matters concerned.
- At the discretion of the Chair, representatives of both the applicant(s) and objector(s) may be allowed to speak on a particular application for a maximum of five minutes in total.

### From:

Michael Bowness  
Interim City Solicitor  
Agenda Contact: Sheila Farnhill  
Phone: 01274 432268  
E-Mail: [sheila.farnhill@bradford.gov.uk](mailto:sheila.farnhill@bradford.gov.uk)

### To:

## **A. PROCEDURAL ITEMS**

### **1. ALTERNATE MEMBERS (Standing Order 34)**

The City Solicitor will report the names of alternate Members who are attending the meeting in place of appointed Members.

### **2. DISCLOSURES OF INTEREST**

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from Members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the Member during the meeting.

*Notes:*

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

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

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Sheila Farnhill - 01274 432268)

## B. BUSINESS ITEMS

### 4. MEMBERSHIP OF SUB-COMMITTEES

The Committee will be asked to consider recommendations, if any, to appoint Members to Sub-Committees of the Committee.

(Sheila Farnhill – 01274 432268)

### 5. **LAND TO THE SOUTH OF 631 TO 655 LEEDS ROAD, THACKLEY** 1 - 18 Idle and Thackley

The Assistant Director - Planning, Transportation and Highways will submit a report (**Document “D”**) in relation to a Reserved Matters Application in respect of the development of 147 houses on land to the South of 631 to 655 Leeds Road, Thackley – 17/05902/MAR.

The report explains that a hybrid application (13/04148/MAF) was approved, further to an appeal, in 2015 for up to 220 houses; 60 in full and 160 in outline. This application is for a reduced number of 147 houses from that granted in outline and includes details of layout, design, internal highway and landscaping. The applicant has also submitted a Deed of Variation in respect of the heads of terms of the related Section 106 Legal Obligation which proposes that the affordable housing provision be met in full with a reduction in the contributions towards the other infrastructure obligations.

#### **Recommended –**

- (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.**
- (2) **That authority be delegated to the Assistant Director - Planning, Transportation and Highways (in consultation with the Interim City Solicitor) to enter into a Deed of Variation, in respect of the original Section 106 Legal Obligation attached to Planning Permission 13/04148/MAF, to retain the contribution in respect of affordable housing provision in full and amend the others, as set below:**

**Affordable Housing - £1,659,000**

**Education - £628,000**

**Recreation/Open Space - £108,000**

**Public Transport Improvements - £38,000.**

(John Eyles – 01274 432484)

Previous references: Minutes 51 and 71 (2017/18)

The Assistant Director - Planning, Transportation and Highways will present a report in relation to a full planning application for the extension of Keighley Industrial Park through the formation of eight structures housing nine commercial units (B8 and B2 uses), with associated car parking, highways connection, drainage and landscaping, on land to the north of Royd Ings Avenue, Keighley – 17/05255/MAF (**Document “E”**).

This application was considered at the meeting of the Committee held on 28 March 2018 when Members resolved that they were minded to grant planning permission and that the application be referred to the Secretary of State.

The report asks Members to consider the contents of a letter from the Environment Agency dated 4 May 2018 (Appendix 1 to Document “E”) which includes new information which is considered to be relevant to the determination of this planning application.

The report also includes a set of draft planning conditions, produced by the Assistant Director further to the meeting held on 28 March 2018 (Appendix 2 to Document “E”), and the comments made by the applicant on these conditions (Appendix 3 to Document “E”).

**Recommended –**

- (1) **That the resolution of the Committee, at its meeting held on 28 March 2018, as set out below:**

***‘Members are minded that planning permission should be granted and referred to the Secretary of State, in coming to this conclusion Members consider there are very special circumstances that warrant the grant of “inappropriate development” in the Green Belt for the following reasons:***

- (i) ***The site was previously allocated as an employment site and such allocation was principally removed because the site was at risk of flooding. The applicant has now demonstrated that the site can be developed without an increased risk of flooding.***
- (ii) ***Not all of the site is within the Green Belt and there is a proven need for employment land within the District that cannot be met.***
- (iii) ***There is no recent evidence of flooding and works of flood alleviation are taking place further upstream.***

- (iv) The applicant had demonstrated through a sequential test that there are no other suitable employment sites within the vicinity of Keighley to accommodate the proven need.**

**and in addition to the above, before being referred to the Secretary of State, the Assistant Director, Planning, Transportation and Highways shall produce a list of relevant planning conditions in consultation with the applicant, and thereafter the Chair and Deputy Chair of the Committee, which shall include all appropriate conditions for a development of this scale and nature. These conditions shall include:**

- (i) The provision of maintenance of flood alleviation measures to ensure continued operation.**
- (ii) The incorporation of all appropriate sustainable measures that will not preclude the commencement of development.'**

**be rescinded, on the basis that the Environment Agency's letter dated 4 May 2018 (Appendix 1 to Document "E") includes a Technical Assessment which is a material planning consideration relevant to the proper consideration and determination of Planning Application 17/05255/MAF by the Local Planning Authority.**

- (2) That Planning Application 17/05255/MAF be refused for the reasons set out in the Assistant Director - Planning, Transportation and Highways' technical report (Appendix 4 to Document "E").**

**(John Eyles – 01274 432484)**

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## Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 21<sup>st</sup> June 2018

# D

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### Subject:

This is a reserved matters application for 147 houses at land south of 631 to 655 Leeds Road, Thackley.

### Summary statement:

This application, for reserved matters, follows the hybrid application – part outline part full, approved at appeal in 2015. The hybrid application was granted for up to 220 houses - 60 in full and 160 in outline. This application is for a reduced number of houses granted outline permission, 147. The application is submitted with matters of layout, design, internal highways and landscaping. In addition, the applicant has submitted a Deed of Variation, to vary the requirements of the Section 106, signed as part of the previous hybrid application. This includes for meeting the affordable housing obligation in full, with a reduction in contributions to meet other obligations.

The principle of development of the urban green space has been agreed following the approval of the earlier application. The layout, design and landscaping of the site, along with measures to incorporate the public bridleway running through the site, are considered acceptable.

A viability appraisal submitted by the applicant has been independently assessed on behalf of the Council. The conclusion of the assessment being that there would be a balance of c. £2.4m for planning obligations (a shortfall of c.£310,000). The applicant is proposing to meet the affordable housing provision in full, 20 units, seeking a reduction from the other planning obligations.

The application is recommended for approval subject to conditions included within the report and the Deed of Variation to revise the planning obligations.

Julian Jackson  
Assistant Director (Planning,  
Transportation & Highways)  
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Major Development Manager  
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### Portfolio:

Regeneration, Planning and Transport  
Overview & Scrutiny Area:

Regeneration and Economy  
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## **1. SUMMARY**

This application, for reserved matters, follows the hybrid application, part outline part full, approved at appeal in 2015. The hybrid application was granted for up to 220 houses - 60 in full and 160 in outline. This application is for a reduced number of houses granted under the outline, now 147. The application is submitted with matters of layout, design, internal highways layout and landscaping. In addition, the applicant has submitted a Deed of Variation, to vary the requirements of the Section 106, completed as part of the previous hybrid application.

The principle of development of the urban green space has been agreed following the approval of the previous application. The layout, design and landscaping of the site, along with measures to incorporate the public bridleway running through the site, are considered appropriate.

In terms of the Deed of Variation, the original obligation for affordable housing would remain as originally agreed. Following a viability appraisal submitted by the applicant, this was independently assessed on behalf of the Council, by Cushman Wakefield. The conclusion of the assessment being that allowing for a 20% gross development value, the return made by the a developer, there would be a balance of c.£2.4m for planning obligations. This results in a shortfall of c. £310,000. The applicant is seeking this being reduced from the other planning obligations – education, recreation space and public transport.

The application is recommended for approval subject to conditions included within the report and the Deed of Variation.

## **2. BACKGROUND**

Attached at Appendix 1 is the Technical Report of the Assistant Director (Planning, Transportation and Highways). This identifies the material considerations relevant to the application.

## **3. OTHER CONSIDERATIONS**

All considerations material to the determination of this planning application are set out in Appendix 1.

## **4. FINANCIAL & RESOURCE APPRAISAL**

The presentation of the proposal is subject to normal budgetary constraints.

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

No implications.

## **6. LEGAL APPRAISAL**

The determination of this application is within the Council's powers as the Local Planning Authority.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

Section 149 of the Equality Act 2010 states that the Council must, in the exercise of its functions “have due regard to the need to eliminate conduct that is prohibited by the Act, advancing equality of opportunity between people who share a protected characteristic and people who do not share it, and fostering good relations between people who share a protected characteristic and people who do not share it. For this purpose section 149 defines “relevant protected characteristics” as including a range of characteristics including disability, race and religion. In this particular case due regard has been paid to the section 149 duty but it is not considered there are any issues in this regard relevant to this application.

### **7.2 SUSTAINABILITY IMPLICATIONS**

The proposals have been fully considered in relation to sustainability issues and the site as a housing site is considered to be located in a sustainable location served by good public transport and close to local facilities.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

A planning condition would require the inclusion of electric vehicle charging points, in accordance with the Council’s Low Emissions Strategy.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

Core Strategy Policy DS5 states that development proposals should be designed to ensure a safe and secure environment and reduce the opportunities for crime. In this instance, subject to appropriate access control, boundary treatments, CCTV and lighting provisions being implemented, it is not considered that there are grounds to conclude that the proposed development would create an unsafe or insecure environment or increase opportunities for crime, in accordance with Core Strategy Policy DS5.

### **7.5 HUMAN RIGHTS ACT**

Article 6 - right to a fair and public hearing. The Council must ensure that it has taken into account the views of all those who have an interest in, or whom may be affected by the proposal.

### **7.6 TRADE UNION**

None

### **7.7 WARD IMPLICATIONS**

None

**7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS**

None

**7.9 IMPLICATIONS FOR CORPORATE PARENTING**

None

**7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

None

**8. NOT FOR PUBLICATION DOCUMENTS**

None

**9. OPTIONS**

The Committee can approve the reserved matters application as per the recommendation contained within Appendix 1, or refuse the application.

If the Committee decide that the reserved matters application should be refused, they may refuse the application accordingly, in which case reasons for refusal will have to be given based upon development plan policies or other material planning considerations relevant to reserved matters issues.

**10. RECOMMENDATION**

This reserved matters application is recommended for approval, subject to a Deed of Variation and the conditions included within Appendix 1.

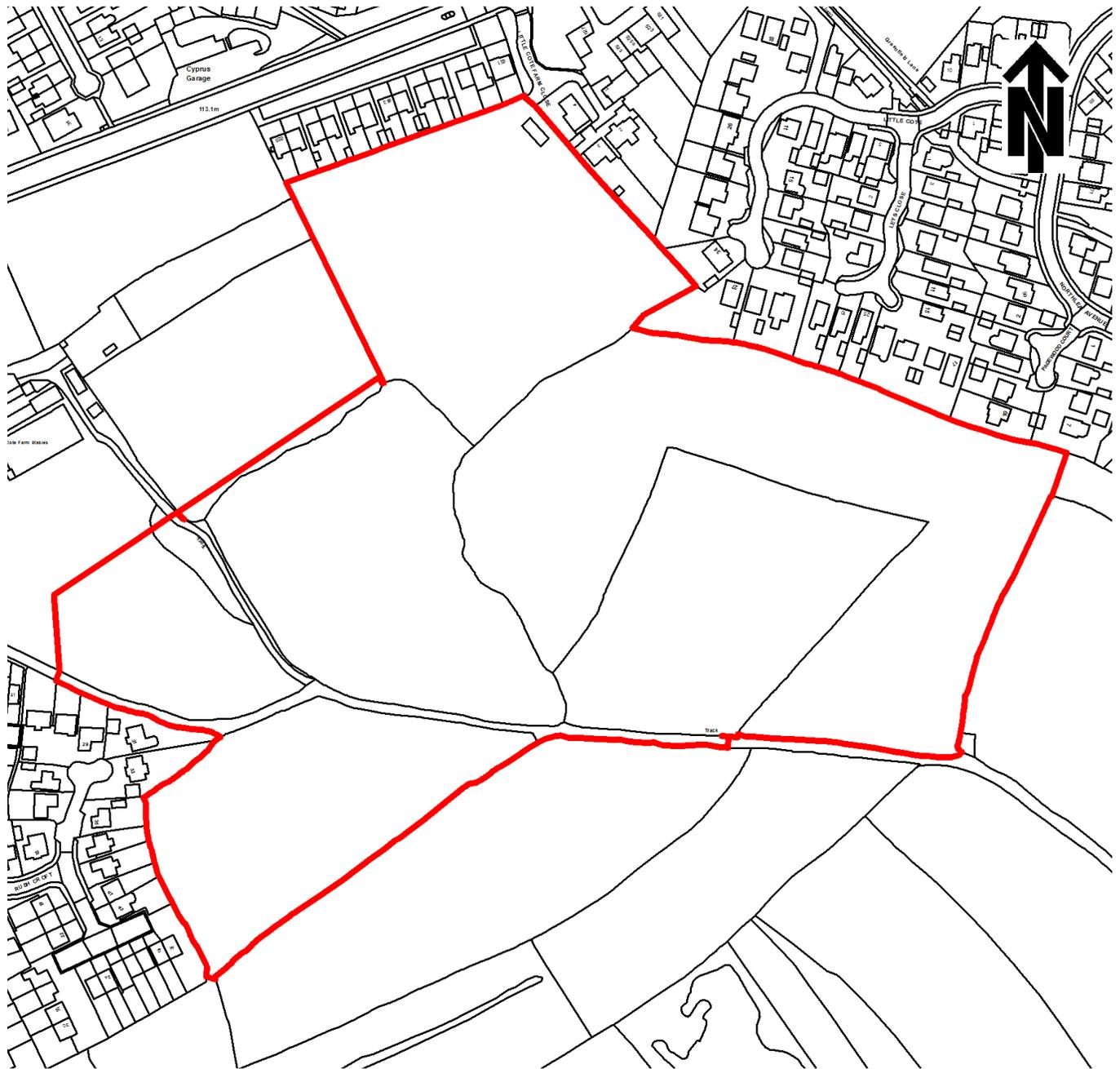
**11. APPENDICES**

Appendix 1 Technical report.

**12. BACKGROUND DOCUMENTS**

National Planning Policy Framework  
Core Strategy  
RUDP

17/05902/MAR



1:2,500

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**Land South Of 631 To 655  
Leeds Road  
Thackley  
Bradford**

21 June 2018

**Ward:** Idle and Thackley

**Recommendation:**

To approve the reserved matters subject to the conditions included within the technical report and the completion of a Deed of Variation to amend the Section 106, completed with the previous hybrid application granted planning permission.

**Application Number:**

17/05902/MAR

**Type of Application/Proposal and Address:**

A reserved matters application for 147 houses at land south of 631 To 655 Leeds Road, Thackley.

**Applicant:**

Persimmon Homes West Yorkshire

**Agent:**

ID Planning

**Site Description:**

The application site is located to the south side of Leeds Road, comprising a number of fields, some used for grazing, west of Thackley. The application site forms a break between a recent housing development to the immediate west and inter-war housing along Leeds Road, to the east A number of farm buildings, associated with Cote Farm, are located off Leeds Road. The application site envelops the farm buildings and a bungalow fronting Leeds Road, but these are both outside of the application site. There are a number of trees and hedgerows within the application site. The field boundaries are marked by a number of dry stone walls.

The site slopes markedly upwards to the north, towards High Busy Lane with Crooked Lane, a public bridleway, travelling from the northern boundary off Leeds Road, through the site and connecting with High Busy Lane.

**Relevant Site History:**

Application 13/04148/MAF approved at appeal following refusal of planning permission. This was a hybrid application, with permission granted, part-outline and part-full for up to 220 houses.

**Policy:**  
**Replacement Unitary Development Plan (RUDP)**

***Allocation***

The site lies within an area identified as Urban Green Space in the RUDP. Policy OS1 applies.

***Proposals and Policies***

*Policies*

Policy UR2 promotes sustainable development.

Policy UR3 local impact of development.

Policy UR6, the Council will seek planning obligations where development proposals require or would not be acceptable without the provision of - physical infrastructure, the mitigation of adverse environmental impacts and/or the enhancement of the environment and social infrastructure.

Policy H7 housing density.

Policy H8 housing density-efficient use of land.

Policy H9 affordable housing.

Policy TM1 developments likely to be significant generators of travel, would be required to be supported by a Transport Assessment (TA). The TA should incorporate proposed traffic reduction measures and measures to promote sustainable travel.

Policy TM2 relates to the impact of traffic and its mitigation.

Policy TM8 new pedestrian and cycle links.

Policy TM10 national/local cycle network.

Policy TM10A impact on other road users.

Policy TM12 parking standards.

Policy TM19A impact on traffic management and road safety.

Policy D1 all development proposals should make a positive contribution to the environment and quality of life through high quality design, layout and landscaping.

Policy D2 development should maximise opportunities to conserve energy and water resources.

Policy D4 developers are required to integrate crime prevention measures, to provide a safe and secure environment.

Policy D5 development proposals designed so that important existing and new landscape features are incorporated in the proposal.

Policy D6/D7 Meeting the needs of pedestrians/cyclists

Policy CF2 education contributions in new residential development.

Policy OS1 urban green spaces.

Policy OS5 provision of recreation open space and playing fields.

Policy NE3/NE3A landscape character area.

Policy NE4 Trees/woodland cover

Policy NE5 Protection of trees

Policy NE6 Protection of trees during development

Policy NE10 development should ensure that ecological features and wildlife habitats, accommodating protected species are protected.

Policy NE11 Ecological appraisals

Policy NR16 Surface water run-off and sustainable drainage.

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

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

Planning for prosperity (an economic role) - by ensuring that sufficient land of the right type and in the right places is available to allow growth and innovation;

ii) Planning for people (a social role) - by promotion of strong, vibrant and healthy communities by providing an increase supply of housing to meet the needs of present and future generations and by creating a good quality built environment with accessible local services;

iii) Planning for places (an environmental role) - by protecting and enhancing the natural, built and historic environment, adapting to climate change including moving to a low-carbon economy.

The NPPF suggests local planning authorities should approve development proposals that accord with statutory plans, without delay.

## **The Core Strategy**

The Core Strategy was adopted in July 2017.

There are a number of Core Strategy Policies which should be considered as part of the application, some of these policy areas will be covered in consultation responses to this application:

- P1 Presumption in Favour of Sustainable Development
- SC5 Location of Development
- SC6 Green Infrastructure
- SC9 Making Great Places
- TR1 Travel Reduction and Modal Shift
- TR2 Parking Policy
- TR3 Public Transport, Cycling and Walking
- H05 Density of Housing Schemes
- HO8 Housing Mix
- HO9 Housing Quality
- HO11 Affordable Housing
- EN2 Bio-diversity and Geo-diversity
- EN4 Landscape
- EN5 Trees and Woodlands
- EN6 Energy
- EN7 Flood Risk
- EN8 Environmental Protection Policy
- DS1 Achieving Good Design
- DS2 Working with the Landscape
- DS3 Urban Character
- DS4 Street and Movement
- DS5 Safe and Inclusive Places
- ID3 Developer Contributions

**Parish Council:**

N/a

**Publicity and Number of Representations:**

Site notices were displayed at and around the application site; a notice placed in the Telegraph & Argus and individual neighbourhood notifications were carried out, with the expiry of the notification period being 22 December 2017.

There have been 91 representations, including 1 in support and 90 objections.

The application has been the subject of further public consultation following receipt of further amended plans. Letters and emails have been sent to those members of the public who have already commented on the proposals and any new issues raised will be reported orally to Members.

**Summary of Representations Received:**

This will cause a massive impact on the already busy Leeds Road, the train service at the surrounding stations are also overcrowded. Lack of space (or long waiting times) for existing residents at doctors surgeries and schools in the area so again this will cause an even bigger impact. (Members are advised that this is not a reserved matters issue and the principle of the development is already established on appeal).

The impact on current residents is a severe issue with what was green belt land that was protected now being "trees promised" the impact on value of the houses that will back onto this new development again severely impacted and the crime rate around this estate is incredibly high with break-ins occurring every evening and to add more possible attractions to our prolific burglars. There is no parking, no school places. (Members are advised that the majority of these issues are not a reserved matters issues and the principle of the development is already established on appeal).

The appeal of cote farm is the combination of a smaller estate of housing with green land. The more green areas you remove you are taking away wildlife and nature, a place for people to escape and aid health and wellbeing not to mention a place to play and for pet owners to not have to worry about traffic and having nowhere close that all can enjoy. Stop stripping our green belts and making traffic congestion more and more impossible. There is far too much building in Thackley, Apperley, Fagley that anyone can cope with. (Members are advised that this is not a reserved matters issue and the principle of the development is already established on appeal).

We already have a huge problem burglaries in the area which the police can't keep up with.

Locally we have no spare school places.

Locally we have no spare availability of health or dental care.

Local transport links are currently very stretched.

Significantly increasing the population in this area will mean that local services are pushed beyond breaking point and the existing residents of the area, will be the ones to suffer. (Members are advised that this is not a reserved matters issue and the principle of the development is already established on appeal).

Why aren't the council building on brown belt or doing up all the empty rundown buildings in the centre of Bradford? (Members are advised that this is not a reserved matters issue and the principle of the development is already established on appeal).

Many people on Cote Farm me included walk their dogs and meet socially through this aside from the physical health issues there are mental health issues a play here by having access to fields to walk and exercise in. (Members are advised that this is not a reserved matters issue and the principle of the development is already established on appeal. There is publically accessible open space within the scheme).

All the time, the land isn't maintained to residents expectations. Trees become diseased and are removed at residents cost and not always replaced as suggested when Council agree to work being done.

They will look to climb over the boundary walls near Pagewood Court that will cause potential damage to the wall and landscape.

The plans show some sort of playground at the front ... this will attract all the wrong teenagers at night generating a similar situation to the one currently happening in Idle Rec.

Destroying local wildlife habitat.

Within the proposed site, bats have been seen for at least the last 15 years. As all UK bats and their roosts are protected by law planning permission should not be granted until the applicant submits a full bats survey. Other wildlife such as deer, foxes, hedgehogs, owls and migrating birds etc, will suffer tremendously if their habitats within this site are destroyed. There are a number of very large old trees on the proposed site, felling these to build housing will also have a detrimental effect on the wildlife.

Building on this site could remove the last area where rainfall can be absorbed - without these fields there is a real risk of flooding. The updated plans for this proposed site contain numerous 2/3 story houses on the land directly behind the bungalows on Little Cote whose gardens are south facing and which border the proposed site.

Our property will be completely overshadowed and overlooked by the potential neighbour and on reviewing the plans our property may have to have trees felled which will be another objection.

The risk of flooding and consequences from run-off would affect us severely as our house build on a slope and at the edge of the proposed development would put us in prime location for trouble.

### **Consultations:**

#### **Housing (Development Enabling)**

This site falls within the Idle & Thackley Ward and the number of units proposed are over the 15 units threshold so affordable housing provision on site would be required. The quota for this ward is 20% Affordable housing provision and this equates to 29 units. Therefore we would require 29 affordable housing units developed on site and delivered at affordable rent via a Registered Provider.

#### **Landscape Design**

The Landscape Masterplan illustrates that the integration of the new housing scheme with the existing landscape features, and new open spaces have been well considered and detailed.

## **Conservation**

The site is located to the south of Leeds Road and is currently mostly open and set to pasture. The site does not include any designated heritage assets, but does affect the settings of two groups of listed buildings in close proximity.

Cote Farm at Crooked Lane is a group of buildings, now comprising 5 dwellings formed from a farmstead developed from the 17th to 19th centuries. Although some of the buildings have been altered from barns to domestic accommodation, the farmstead is considered a good example in illustrating the evolution of a small vernacular farm group. The housing immediately surrounding this group of designated heritage assets has already been approved (on Appeal) in full and this application is therefore for the reserved matters for the remainder of the housing site. The physical and visual linkages between the housing that reserved matters are being sought and Cote Farm is very limited and it is considered that the impact on the setting of these heritage assets will be no greater than that of the approved situation.

Further east is the group of buildings comprising Little Cote Farm, now all converted to residential with some accompanying new build. Further recent residential development surrounding Little Cote Farm has divorced the historic buildings from any open setting, and as a consequence the proposed development will not have any significant impact on the setting of the buildings here.

On this basis the reserved matters, as proposed, are not considered likely to result in a development which would impact on the setting of the designated heritages asset above and beyond that of the approved situation and therefore is considered to accord with chapter 12 of the NPPF and Core Strategy Policy EN3.

## **Minerals**

Note that the application (13/04148/MAF - Hybrid - Full and Outline) was subject to an appeal and the Inspectors decision attached conditions suggested by the Minerals Team. On the assumption these appeal conditions are adhered to, there are no further issues raised with regards to this reserved matters application.

## **Public Rights of Way (PROW)**

One of the conditions of the Inspectors approval was that they were required to submit details for the treatments of PROW within the development with the Inspector going on to say that this would be necessary in the interests of the maintenance of the public ROW network in the area. Persimmon, I believe are submitting a condition discharge for this but this is concerning if they are not proposing any further works to Crooked Lane. At a minimum they should be carrying out surface improvements along this route (treatments to be agreed), improving drainage, cutting back vegetation and installing signage at the road junctions – this work would be consistent with other improvements that were carried out to bridleways affected by other developments in the area. Boundary treatments (i.e. wall or fence repairs) should also be dealt with as part of any improvements, but it's unclear if this has yet been agreed. I would also like to note that no management plan has been submitted for the areas of POS.

### **Arboriculture Team**

The layout, appears to take consideration of the trees and has been designed around those of the most significance including those which are protected by Tree Preservation Orders (TPO). If minded to approve the application I would request that conditions be applied.

### **Highways Development Control**

A revised site layout plan has been received (Ref: CRL-2016-101F) and this is now overcomes previous highway concerns. Therefore if the Council were minded to approve this application then conditions would be appropriate within the decision notice.

### **West Yorkshire Police (Architectural Liaison Officer)**

Comments will be reported verbally.

### **Lead Local Flood Authority**

The Lead Local Flood Authority (LLFA) has assessed the documentation relating to the surface water disposal on the proposed development, against the requirements of the National Planning Policy Framework and Planning Practice Guidance. An assessment of the submitted documentation has been carried out and if the details are implemented and secured by way of a planning condition on any planning permission the Lead Local Flood Authority has no objection to the proposed development.

### **Children's Services**

The following schools are within a reasonable distance of the proposed development:  
Primary: Thackley, Idle CoE, St Anthony's Catholic, Thorpe, Christ Church CoE, Parkland and Greengates.

Secondary: Immanuel College, Hanson Academy and Titus Salt School.

Currently the schools are overcrowded or full. It may therefore mean that the Council would need to increase the number of school places in this area.

### **Summary of Main Issues:**

- Principle of development
- Layout and Design
- Impact on residential amenity
- Highways & Transportation
- Drainage Issues
- Rights of Way
- Planning Obligations
- Ecological issues
- Impact of development on nearby Listed Buildings

### **Appraisal:**

#### Principle of development

The site is allocated as urban green space in the RUDP, Policy OS1. An earlier application for residential development at the site was refused at Committee in 2014. This decision was appealed and planning permission granted at the appeal, following a Public Inquiry in 2015. Consequently, the principle of development on part of the urban green space is agreed.

It is also noted that Paragraph 47 of the National Planning Policy Framework stresses the need for Local Planning Authorities to significantly boost the supply of new housing. The adopted Core Strategy underscores this strong planning policy support for the delivery of new housing, emphasising that one of the key issues for the future development of the district is the need to house Bradford's growing population by delivering 42,100 new residential units by 2030.

In relation to housing land supply, the National Planning Policy Framework (NPPF) indicates that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years-worth of housing against the Council's housing targets. Where there has been a record of persistent under-delivery of housing the local planning authority should identify an additional 20%. The Council's Strategic Housing Land Availability Assessment Update Report 2015 (SHLAA) indicates that there is a substantial shortfall in housing land relative to these requirements. Whilst the Council is updating the SHLAA, it anticipates that the five-year housing land supply position will remain well below the level required by the NPPF. Under these circumstances, paragraph 14 of the NPPF confirms that the relevant policies for the supply of housing should not be considered up-to-date. Paragraph 49 of the NPPF confirms that where a five-year supply of housing land cannot be demonstrated housing applications should be considered with a presumption in favour of sustainable development. In light of the record of persistent under-delivery and the housing land supply shortfall relative to the requirements of the NPPF, there is an urgent need to increase the supply of housing land in the District. This proposal would make a valuable contribution towards meeting that need.

#### Layout and Design

The proposed layout reflects that shown indicatively as part of the approved hybrid application.. Given the challenge of the sloping nature of the application site, the proposed scheme has been designed to account for the topography. This results in retaining structures to parts of the site. The highways layout is set by the levels across the site and designed to ensure the internal highway layout is at gradients appropriate for residential use.

A number of revisions have been made to the layout. These allow for amendments to the full application site and reserved matters application; substitution of house-types and drainage easements. Similarly, revised sections have been submitted to reflect the layout.

The existing boundary walls and trees within the site have been incorporated in the layout.

The application provides areas of public space and along with connections to existing public rights of way, the layout and design of the scheme is considered acceptable.

#### Impact on residential amenity

Whilst the layout submitted at outline was indicative, the layout of this reserved matters application broadly follows that layout. The relationship between existing and proposed properties has been considered and is not believed to result in any adverse impact on residential amenity, through overshadowing, overlooking or loss of privacy. Appropriate distances would be maintained between habitable room windows in compliance with City of Bradford Metropolitan District Council (CBMDC) planning guidelines.

### Highways & Transportation

Following a number of iterations, issues including levels, road geometry and parking have now been addressed and subject to conditions Highways Development Control has no objection.

### Drainage Issues

The Lead Local Flood Authority has assessed the documentation, against the requirements of the National Planning Policy Framework and Planning Practice Guidance. The Flood Risk Assessment identifies that all the development would be outside flood zones 2 and 3. The outline planning permission contained an agreed drainage strategy.

An assessment has been carried out and the Lead Local Flood Authority, CBMDC, has no objection to the proposed development.

### Rights of Way Issues

Following the granting of planning permission at appeal, a number of conditions were imposed by the Inspector. These included a requirement to provide improvements to the existing public rights of way network. Consequently, the issues raised by the Rights of Way Officer would be addressed through the submission of details to comply with the conditions.

### Planning Obligations

The planning permission granted on appeal was subject to a Section 106 Agreement. The following planning obligations were agreed:

- education facilities;
- affordable housing;
- recreation open space/playing field contribution;
- and public transport improvements.

Subsequently, the applicant has submitted a development appraisal, in support of providing affordable housing in full but reducing the other S106 contributions. This being dealt with through a Deed of Variation. The development appraisal has been independently assessed and it is concluded that the gross development value would not allow for the Section 106 obligations to be met in full. This results in a shortfall of what can be provided by the applicant.

Consequently, the applicant is proposing to make the affordable housing contribution in full, with reduced contributions towards education, recreation open space/playing fields and public transport improvements.

### Ecological Issues

The relevant surveys have been carried out and there is no evidence that protected species would be adversely affected by the proposed development.

### Impact of development on nearby heritage assets

The reserved matters application would not impact on any heritage assets. (The full part of the hybrid application approved at appeal was adjacent to Cote Farm Cottages, grade II listed buildings. These are some distance from the reserved matters application site).

### Deed of variation to S106

The original planning obligations would total c. £2,752,000.

Following the viability appraisal, the applicant is proposing to provide a sum of £2,435,000 towards the planning obligations. The affordable housing provision would be met in full, 20 units, with shortfall of c. £317,000 being reduced on a pro rata basis from the other planning obligations. This provides for the following -

Affordable Housing - £1,659,000  
Education - £628,000  
Recreation space - £108,000  
Public transport - £38,000

### **Reason for Granting Approval:**

The proposed development would meet the requirements of Core Strategy policies P1, SC5, SC6, SC9, H05, H08, H09, H011, EN1, EN2, EN4, EN5, EN6, EN7, EN8, DS2, DS3, DS4, DS5, ID2 and ID3 and the application is recommended for approval.

The original hybrid application was approved subject to conditions attached to the outline element and the full element. This reserved matters application is subject to both existing conditions imposed as part of the outline and new conditions imposed as part of the reserved matters application. The additional conditions are detailed below.

### **Conditions:**

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

Reason: To ensure that a suitable form of access is made available to serve the development in the interests of highway safety.

2. Before any development commences on site, full details, including all necessary calculations of those temporary and permanent works affecting the stability of the highway boundary walling shall be submitted to and approved in writing by the Local Planning Authority. The measures so approved shall be carried out in accordance with a programme of works to be approved in writing by the Local Planning Authority.

Reason: No details have been submitted of necessary retaining structures and such measures are necessary to protect the stability of the highway in the interests of safety.

3. Before the development is brought into use, the off-street car parking facility shall be laid out, hard surfaced, sealed and drained within the curtilage of the site in accordance with the approved drawings. The gradient shall be no steeper than 1 in 15 except where otherwise approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

4. Before any part of the development is brought into use the proposed highway serving the site shall be laid out, hard surfaced, sealed and drained within the site to base course level in accordance with details to be approved; and to a constructional specification approved in writing by the Local Planning Authority. As and when a phase or the whole development is completed the final road surfacing and drainage relating to that phase or the whole development, whichever shall apply, shall be laid out and the street lighting installed.

Reason: To ensure that adequate and safe access is provided in the interests of highway safety.

5. Before any development works commence on site, full details of the phasing of the construction of the development including the intended timetable for implementation of the means of access, car parking and servicing arrangements shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason: To ensure that a suitable form of access, parking and servicing facilities are made available at an appropriate stage throughout the course of the construction works, in the interests of highway safety.

6. Prior to the removal of the protective fencing and other agreed tree protection measures, written verification/evidence that the developer has arranged for supervision and monitoring of those approved measures by a suitably qualified and pre-appointed tree specialist, at regular and frequent intervals throughout the duration of the construction period, shall be submitted to the Local Planning Authority.

Prior to the occupation of the development, or prior to the occupation such phases of the development as have been agreed in writing with the Local Planning Authority, the Local Planning Authority shall have first confirmed in writing its agreement to the verification/evidence.

Reason: To ensure that trees have been adequately protected by the developer during development activity and that harm to the trees has been effectively prevented or mitigated by the measures proposed in the planning application submission. To ensure that protection measures have prevented harm to trees and visual amenity, to accord with Policy EN5 of the Bradford Local Plan Core Strategy.

7. Notwithstanding the details contained in the supporting information, the drainage works shall not commence until full details and calculations of the proposed means of disposal of surface water drainage, based on drainage principles that promote water efficiency and water quality improvements through the use of SuDS and green infrastructure to reduce its effect on the water environment, have been submitted to and approved by the local planning authority. The development shall thereafter only proceed in strict accordance with the approved drainage details.

Reason: To ensure the appropriate means of surface water disposal.

8. The surface water drainage infrastructure serving the development shall be managed in strict accordance to the terms and agreements, over the lifetime of the development, as set out in a Surface Water Drainage Maintenance and Management document to be submitted to the Lead Local Flood Authority for approval.

Reason: To ensure appropriate surface water drainage infrastructure.

9. The development should not begin until a temporary drainage strategy outlining the drainage arrangements for different construction phases of the project has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only proceed in strict accordance with the approved temporary drainage strategy.

Reason: To ensure an appropriate strategy is in place.

10. Notwithstanding the details contained in the supporting information, the drainage works shall not commence until a strategy on how the development intends to manage the existing land drainage network through the site, including the treatment of any unknown springs and watercourses, have been submitted to and approved by the Local Planning Authority. The development shall thereafter only proceed in strict accordance with the approved drainage details.

Reason: To ensure the land drainage network is properly managed.

11. Notwithstanding the details contained in the supporting information, the drainage works shall not commence until full details and calculations of the proposed means of disposal of foul water drainage, have been submitted to and approved by the Local Planning Authority. The development shall thereafter only proceed in strict accordance with the approved drainage details.

Reason: To ensure foul drainage is appropriately dealt with

12. No development to take place until details of how the development intends to manage the existing surface water flood route through the development have been submitted and approved by the Local Planning Authority.

Reason: To ensure the appropriate management of surface water.

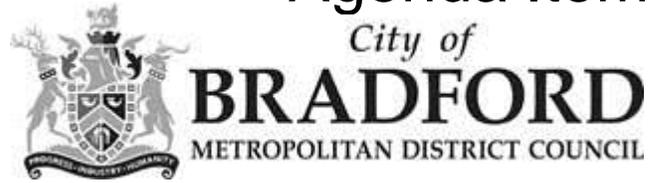
13. Before any part of the development is occupied, the adoptable visibility splays shall be laid out, hard surfaced, sealed and drained within the highway in accordance with details to be approved in writing by the LPA.

Reason: In the interests of highway safety.

**Positive & Proactive Statement in accordance with Article 35(2) of the Town and Country (Development Management Procedure) (England) Order 2015**

In dealing with this planning application the Local Planning Authority adopted a positive and proactive manner. The Council offers a pre-application service for minor and major applications and applicants are encouraged to undertake this. Proposals are assessed against the National Planning Policy Framework, Local Plan for Bradford policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reason for approval or reason(s) for refusal. The Local Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

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## Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee to be held on Thursday 21 June 2018

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### Subject:

Full planning application 17/05255/MAF for the extension of Keighley Industrial Park through the formation of 8 structures housing 9 commercial units (B8 & B2 usage) with associated car parking, highways connection, drainage and landscaping on land north of Royd Ings Avenue, between the A629 and the River Aire.

### Summary statement:

Members of the Regulatory and Appeals Committee are asked to consider the contents of a letter from the Environment Agency dated 4<sup>th</sup> May 2018 in respect of planning application ref. 17/05255/MAF. The contents of this letter are included at Appendix 1 and are summarised in the report below. The contents of the letter include new information which is considered to be relevant to the determination of the planning application.

The new information is a Technical Assessment by the Environment Agency of the flood risk mitigation proposals included in the application. This assessment concludes that the mitigation proposed by the applicants is likely to be ineffective at retaining the current floodplain function of the site and ensuring that off-site flood risks are not increased by the development. This information was not previously provided by the Environment Agency, as they consider the development to be unacceptable in principle, and had therefore, in accordance with their normal practice, only previously provided a policy assessment.

Following consideration of this new information, Members of the Regulatory and Appeals Committee are asked to consider the option of rescinding the previous resolution relating to the determination of the planning application. This resolution was made by the Regulatory and Appeals Committee at the meeting of 28 March 2018, and stated that 'Members are minded that planning permission should be granted and referred to the Secretary of State'.

If the Committee opt to rescind the previous resolution, then the Committee may make any new resolution in respect of the determination of planning application ref. 17/05255/MAF which they consider appropriate. The advice of Planning Officers to the Regulatory and Appeals Committee remains that the planning application should be refused, for the reasons set out in the Technical Report at Appendix 4. These reasons primarily relate to Green Belt, Flood Risk, Ecology, Landscape and Air Quality impacts.

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Julian Jackson  
Assistant Director (Planning,  
Transportation & Highways)  
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### Portfolio:

Regeneration, Planning and Transport  
Overview & Scrutiny Area:

Regeneration and Economy  
Page 19

## 1. SUMMARY

On the 28<sup>th</sup> of March 2018 the Regulatory and Appeals Committee resolved:

**Members are minded that planning permission should be granted and referred to the Secretary of State, in coming to this conclusion Members consider there are very special circumstances that warrant the grant of “inappropriate development” in the Green Belt for the following reasons:**

**(i) The site was previously allocated as an employment site and such allocation was principally removed because the site was at risk of flooding. The applicant has now demonstrated that the site can be developed without an increased risk of flooding.**

**(ii) Not all of the site is within the Green Belt and there is a proven need for employment land within the District that cannot be met.**

**(iii) There is no recent evidence of flooding and works of flood alleviation are taking place further upstream.**

**(iv) The applicant had demonstrated through a sequential test that there are no other suitable employment sites within the vicinity of Keighley to accommodate the proven need.**

**And in addition to the above, before being referred to the Secretary of State, the Assistant Director, Planning, Transportation and Highways shall produce a list of relevant planning conditions in consultation with the applicant, and thereafter the Chair and Deputy Chair of the Committee, which shall include all appropriate conditions for a development of this scale and nature. These conditions shall include:**

**(i) The provision of maintenance of flood alleviation measures to ensure continued operation.**

**(ii) The incorporation of all appropriate sustainable measures that will not preclude the commencement of development.**

Since that time Planning Officers have been engaged in the exercise of drawing up a set of draft planning conditions as per the Committee Resolution. To inform these conditions it was necessary to re-consult all statutory and non-statutory consultees. This was because the majority of consultees had expressed fundamental objections to the development and had consequently not previously recommended planning conditions.

A set of draft planning conditions was subsequently produced and submitted to the applicant for the purposes of consultation (as per the Committee resolution). The draft conditions produced by Officers are presented at Appendix 2 and the Applicant’s commentary upon those conditions is presented at Appendix 3. In summary the applicant objects to the requirements of a significant proportion of the planning conditions, as they consider them to be unduly onerous. Further details of the position in relation to the conditions is provided at the end of this section.

In response to the conditions consultation the Environment Agency went through a further process of reviewing the application and consulting with relevant flood risk experts and their national office. The outcome of this process was the letter of 4 May 2018 presented at Appendix 1. The contents of this letter are set out in full in the appendix but a summary of relevant excerpts are provided below:

- We consider the proposed development conflicts with ... local planning policies, firstly that ... the Council will not permit development in areas shown as functional floodplain (Flood Zone 3b) in the SFRA. The proposed development would also conflict with the aim to safeguard the potential to increase flood storage provision, and we consider there has been insufficient demonstration within the submitted information that the proposal does not increase flood risk elsewhere.
- Granting planning permission to actively develop within existing functional flood plain (FZ3b) that would displace flood waters and flows, would set a precedent for future development proposals and would undermine the goals of this collaborative approach [the FAS] and, in doing so, jeopardise the sustainability and resilience of existing downstream development. Such a precedent is unacceptable.
- The submitted FRA does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.
- Historic flooding of the site has not been fully assessed, in particular the 2015 flood event has not been considered in the FRA [also] the site was recently flooded in April 2018.
- Site users could be exposed to flooding with a hazard classification of 'danger for all'. This means it is considered too dangerous for even the emergency services during a flood event [*Officer comment/note: West Yorkshire Fire and Defence have since been consulted on this matter and have indicated that they would not object to the development, subject to the access road being designed to a specified standard*]
- The FRA has not adequately assessed the impacts of the proposed raised areas on flood risk to others, for the lifetime of the development.
- There is a likelihood that the voids and/or their screens will silt up and cannot be relied upon for the lifetime of the development.
- Fenced voids do not equate to unrestricted flood flow routes - Flood waters routinely carry debris such as silt, sediment, litter and vegetation, particularly in urban areas such as this. Such debris can block debris screens or fill voids, preventing or restricting the free flow of water.
- The voids proposed below the buildings appear to be lower than the ground levels and are designed to have mesh between stilts - This should not be considered as appropriate compensation as it is highly likely to silt up over time and become non-functional.
- This is also not an appropriate mitigation as the proposed voids could be filled with water from a previous flood event, for example, and therefore not be available for the required storage capacity.
- Compensation cannot be provided within the site (as the entire site lies within Flood Zone 3)
- Climate change has not been adequately considered in the storage proposals.

- The use of stilts and voids is not true floodplain compensation, but rather mitigation of risk by design - The use of stilts reduces the impact of the development but does not guarantee that the floodplain will be retained in the same way ... and therefore does not guarantee that the development will not increase flood risk.
- We consider that the only way to ensure that there is no unacceptable increase in flood risk is to ensure that this development does not go ahead. As such we do not consider that it is appropriate to recommend planning conditions.

Planning Officers advise that the information presented by the Environment Agency in their 13 page letter of 4 May 2018, and in particular the Technical Assessment included in this letter, comprises new information which is relevant to the determination of planning application ref. 17/05255/MAF. This Technical Assessment was not previously provided during the consideration of the planning application, as the Environment Agency considers the development of functional floodplain with industrial buildings, as proposed, to be unacceptable in principle and therefore, when first consulted, they considered a technical assessment to be irrelevant.

On 8<sup>th</sup> May 2018 Officers sent a full copy of the Environment Agency letter dated 4<sup>th</sup> May 2018 (including the Technical Assessment referred to in this report) to the Applicants. The Applicants were invited to respond to the issues raised. To date no response to the Environment Agency document has been received.

The Environment Agency remain of the view that the development is unacceptable in principle; however now that they understand that the Council is minded to grant planning permission for the development they have undertaken a Technical Assessment notwithstanding this position. This Technical Assessment is new information which the Committee were not privy to during their deliberations on 28 March 2018. The Technical Assessment advises that the applicant's Flood Risk Assessment is not adequate and that the applicant's proposed flood risk mitigation measures will not work. The key points made by the Environment Agency, and which the applicant has not adequately addressed, are considered to be:

- **The use of stilts and voids is not true floodplain compensation, but rather mitigation of risk by design.**
- **The development, with associated use of stilts and voids represents an increase in flood risk rather than a reduction.**
- **The voids proposed below the buildings [are] highly likely to silt up over time and become non-functional.**
- **The proposed voids could be filled with water from a previous flood event, for example, and therefore not be available for the required storage capacity.**
- **The use of stilts reduces the impact of the development but ... does not guarantee that the development will not increase flood risk.**
- **There is a likelihood that the voids and/or their screens will silt up and cannot be relied upon for the lifetime of the development.**
- **Fenced voids do not equate to unrestricted flood flow routes - debris can block debris screens or fill voids, preventing or restricting the free flow of water.**

- **Compensation cannot be provided within the site (as the entire site lies within Flood Zone 3)**

On the basis that the Technical Assessment by the Environment Agency is a material consideration relevant to the determination of planning application ref. 17/05255/MAF and that the Regulatory and Appeals Committee were not privy to this material consideration when the previous resolution was made that the committee was minded to grant planning permission, it is recommended that this previous resolution is rescinded. In the event that the Committee do opt to rescind the previous resolution, the advice of Planning Officers to the Regulatory and Appeals Committee remains that the planning application should be refused, for the reasons set out in the Technical Report at Appendix 4. These reasons primarily relate to Green Belt, Flood Risk, Ecology, Landscape and Air Quality impacts.

In the event that the Committee do not opt to rescind their previous resolution, a proposed set of planning conditions is presented at Appendix 2. The Committee is invited to consider the appropriateness of these proposed conditions, with reference to the applicant's commentary upon them, as set out at Appendix 3. It should be noted that the applicant objects to a large proportion of the conditions recommended by Planning Officers, including conditions requiring full details of site preparation and engineering works to be approved before the development begins. The applicant also opposes the requirement for the approval of further ecological, flood risk and air quality mitigation details.

Planning Officers consider that the proposed conditions pass the relevant tests, in that they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It is further considered that the planning condition requirements are necessary to ensure that the development is implemented in as controlled, safe and appropriate a manner as possible and to provide for a level of mitigation which is reasonably proportionate to the potential significant environmental effects of the development.

Specifically it is considered to be necessary for full details of the landform alterations, site preparation/ engineering and flood risk mitigation works comprised in the development to be provided prior to the development beginning, in order to minimise the risk of the site being altered in a way which inhibits the current floodplain function of the site. Furthermore it is considered that the air quality mitigation requirements are necessary to minimise the extent to which the development will exacerbate existing air pollution problems in Keighley. Additionally further ecological survey and mitigation work is considered to be required to attempt to fully quantify and mitigate the ecological harm the development will cause, both in terms of the oxbow wetland which will be destroyed by the development and the potential loss of supporting habitat for the South Pennine Moors Special Protection Area (SPA).

Planning Officers would advise the Committee that to omit a large proportion of the proposed conditions, or to alter them to allow engineering operations to take place upon the site prior to their satisfaction, as proposed by the applicant, would undermine the control the Council would have over the development of the site and increase the risk of

the development being implemented in such a manner that flood risks on the River Aire are increased. It is therefore recommended that, in the event that the Committee opt not to rescind their previous resolution and remain minded to grant planning permission, the planning conditions set out at Appendix 2 are imposed upon any such permission.

Before issuing any decision to grant planning permission the procedural requirements of the Consultations Direction 2009 must be followed. Two of the consultation criteria set out within the Consultation Direction 2009 are 'Green Belt Development' and 'Flood Risk Area Development'. The proposal meets both of these criteria and therefore a consultation will have to be made to the Secretary of State.

The consultation procedure is to send a letter and associated attachments to the government's National Planning Casework Unit (NPCU). The NPCU then have 21 days to assess whether the application meets the Secretary of State's published call-in criteria, taking account of the information provided by the Local Planning Authority and any third party representations. The published call-in criteria are:

- The Secretary of State will, in general, only consider the use of his call-in powers if planning issues of more than local importance are involved. Such cases may include, for example, those which in his opinion:
  - may conflict with national policies on important matters;
  - may have significant long-term impact on economic growth and meeting housing needs across a wider area than a single local authority;
  - could have significant effects beyond their immediate locality;
  - give rise to substantial cross-boundary or national controversy;
  - raise significant architectural and urban design issues; or
  - may involve the interests of national security or of foreign Governments.
- However, each case will continue to be considered on its individual merits

"Calling-in" of a planning application refers to the power of the Secretary of State to take the decision making power on a particular planning application out of the hands of the local planning authority for his own determination. On occasion the NPCU will require longer than 21 days to decide whether or not to call in a planning application, in which situation they may issue a Holding Direction. If a planning application is called-in, there will be a Public Inquiry chaired by a planning inspector, or lawyer, who will make a recommendation to the Secretary of State. The Secretary of State can choose to reject these recommendations if he wishes and will genuinely take the final decision.

## **2. BACKGROUND**

Attached at Appendix 4 is a copy of the Technical Report of the Assistant Director (Planning, Transportation and Highways). This identifies the material considerations relevant to the application. Appendix 1 sets out the new advice provided by the Environment Agency and Appendices 2 and 3 set out the planning conditions proposed by Planning Officers and the applicant's commentary upon them.

### **3. OTHER CONSIDERATIONS**

All information relevant to the consideration of whether or not to rescind the resolution made at the Regulatory and Appeals Committee Meeting of 28 March 2018, and for the subsequent determination of planning application ref. 17/05255/MAF and any associated planning conditions, are set out in Appendices 1 to 4 of this report.

### **4. OPTIONS**

If the Regulatory and Appeals Committee consider that the Technical Assessment contained in the letter from the Environment Agency dated 04 May 2018 is a material consideration relevant to the determination of the planning application, the Committee has the right to rescind the resolution for the determination of planning application ref. 17/05255/MAF made at the meeting of 28 March 2018, in which case a new resolution can be made.

Alternatively, if the Regulatory and Appeals Committee consider that the Technical Assessment contained in the letter from the Environment Agency dated 04 May 2018 is not a material consideration relevant to the determination of planning application, the Committee may confirm that they wish for that previous resolution to stand.

If the Committee proposes to rescind their previous resolution then they may make a new resolution in respect of the determination of planning application ref. 17/05255/MAF. This resolution may be to either refuse planning permission, either for the reasons set out in the technical report at Appendix 4, or for any other valid planning reasons which the Committee consider to apply, or to grant planning permission afresh. If the Committee resolve to grant planning permission then new reasons for approval, based upon the development plan or other material considerations, must be given.

If the Committee proposes to either maintain their previous resolution or to make a new resolution that planning application ref. 17/05255/MAF should be granted, the planning conditions, which any such approval should be subject to, may also be resolved. The Committee may resolve to grant planning permission subject to the conditions recommended by Planning Officers, as set out at Appendix 2, or subject to any alternative set of conditions which the Committee consider to be appropriate and to pass the relevant tests set out in NPPF paragraph 206.

The Consultations Direction 2009 directs that, where a local planning authority does not propose to refuse an application for planning permission for the development of new buildings in the Green Belt of over 1,000m<sup>2</sup> floorspace or major development in a flood risk area to which the Environment Agency object, the authority shall first consult the Secretary of State for his decision on whether to call in the application.

### **5. FINANCIAL & RESOURCE APPRAISAL**

None relevant to this application.

### **6. RISK MANAGEMENT & GOVERNANCE ISSUES**

None relevant to this application.

## 7. LEGAL APPRAISAL

The options set out above are within the Council's powers as the Local Planning Authority under the provisions of the Town and Country Planning Act 1990 (as amended), subject to consultation with the Secretary of State, to allow him opportunity to call in the application if he so wishes under the provisions of the Consultations Direction, if the Committee resolved to approve planning permission.

It is long established law (*R. v. West Oxfordshire District Council, ex p. Pearce Homes Ltd* [1986]) that a resolution by a planning committee to grant planning permission is not turned into a formal grant of permission until the written grant of permission is issued. In between there is a practical risk that issues may arise that justify the local planning authority changing its mind;

*R. (on the application of Erine Kides) v. South Cambridgeshire DC* raised the issue of the extent to which a local planning authority is under a duty to reconsider and therefore to review the merits of its original decision. In *R. v. St Edmundsbury BC, ex p. Davidson* [2000] Dyson J. held that where there was a material change in circumstances, the LPA should have reconsidered the original resolution. However in *Kides* . Ouseley J. went on to hold that the only overriding duty was that imposed by section 70, that there should be regard to all material considerations. This duty continues right up to the time that the grant or refusal is formally made. This duty can be satisfied without there being a formal reconsideration of the previous resolution. . Ouseley J. expressed the principle as follows:

“Very often circumstances will indeed require a formal committee meeting to reconsider an earlier resolution in the light of new circumstances. However I do not except that it is required by law if, on the facts of a particular case, it is possible to demonstrate that regard was had to the material considerations.”

The position here is that the Environment Agency has issued a Technical Assessment reinforcing its reasons why the Committee should revisit its decision. The Assistant Director has concluded that the matter should be referred back to Committee. Paragraph 14.21 of Article 14 of the Council's Constitution makes it clear that, where delegation is given, the officer shall always be entitled to refer a matter to the Executive or appropriate Committee or Sub-Committee for decision where he considers it expedient to do so.

To put the matter in terms therefore the Committee is obliged to consider two issues:

1) having been aware of the Environment Agency objection and having dismissed it as a matter of planning judgement should the decision be overturned on the receipt of new information?

2) Is the Technical Appraisal such that it amounts to a material change in circumstances to require reconsideration of the previous decision?

It is a matter for the Committee to make a planning judgment within the law and facts on the issue and to consider whether to accept or reject Officer Recommendations.

## **8. OTHER IMPLICATIONS**

### **8.1 EQUALITY & DIVERSITY**

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups, in accordance with the duty placed upon Local Authorities by Section 149 of the Equality Act 2010.

The context of the site, the development scheme proposed and the representations which have been made have been reviewed to identify the potential for the determination of this application to disadvantage any individuals or groups of people with characteristics protected under the Equality Act 2010. The outcome of this review is that there is not considered to be any sound basis to conclude that either refusing or approving planning permission would be likely to lead to disproportionate impacts on any groups of people or individuals who possess protected characteristics. Full details of the process of public consultation which has been gone through during the consideration of this application and a summary of the comments which have been made by members of the public are attached at Appendix 4.

### **8.2 SUSTAINABILITY IMPLICATIONS**

The National Planning Policy Framework (NPPF) confirms that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are three dimensions to Sustainable Development, comprising:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- a social role - supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- an environmental role - contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

The proposal is for the development of a 10.7 hectare area of previously undeveloped (greenfield) land with industrial/ storage and distribution buildings and associated infrastructure. The development of 30 hectares of new employment land within Airedale is identified within the Core Strategy as being necessary to contribute to building a strong, responsive and competitive economy. However the report at Appendix 4 explains why the proposal site is not the right place for this development in terms of green belt, flood risk, ecology, landscape and air quality issues. It is therefore not considered that the proposal represents Sustainable Development within the meaning of the NPPF.

### **8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

The development of new buildings and land to accommodate industrial uses will invariably result in the release of additional greenhouse gases associated with both construction operations and the activities of future occupiers. The proposed development will generate substantial additional HGV traffic (up to an additional 30 vehicle trips through Beechcliffe roundabout and up to 78 vehicle trips through Bradford Road roundabout in the morning peak hour) which has the potential to worsen air quality and greenhouse gas emissions impacts on the District.

The Council's Low Emissions Strategy sets out mitigation measures which are required to mitigate such adverse impacts, including through low emissions travel plans, electric vehicle charging and emissions damage cost calculation/ offsetting. Although the application does include a Transport Assessment, Travel Plan Framework and Air Quality Assessment these documents do not adequately provide for measures to off-set or mitigate the adverse air quality and greenhouse gas emissions impacts of the development contrary to Core Strategy Policy EN8(A). Further details of site sustainability considerations and air quality issues relevant to the proposed development are set out in the Technical report at Appendix 4.

### **8.4 COMMUNITY SAFETY IMPLICATIONS**

Adopted Core Strategy Policy DS5 states that development proposals should be designed to ensure a safe and secure environment and reduce the opportunities for crime. In this instance, subject to appropriate access control, boundary treatments, CCTV and lighting provisions being implemented, it is not considered that there are grounds to conclude that the proposed development would create an unsafe or insecure environment or increase opportunities for crime, in accordance with adopted Core Strategy Policy DS5.

### **8.5 HUMAN RIGHTS ACT**

The Council must seek to balance the rights of applicants to make beneficial use of land with the rights of nearby residents to quiet enjoyment of their land; together with any overriding need to restrict such rights in the overall public interest. In this case there is no reason to conclude that either granting or refusing planning permission will deprive anyone of their rights under the Human Rights Act.

### **8.6 TRADE UNION**

There are no implications for Trades Unions relevant to this application.

### **8.7 WARD IMPLICATIONS**

The proposal site is within the Keighley Central Ward. Ward Councillors and local residents have been made aware of the application and have been given opportunity to submit written representations through notification letter, site notices and an advertisement in the press. A second round of publicity, including the posting of site notices and neighbour notification letters, was initiated on 06 February 2018 following the submission of further information/ revised proposals.

In response to this publicity 21 written representations have been received 13 of which object to the application and 8 of which support the application. Keighley Town Council have not commented upon the application. The local MP has written a letter in support of the application. The Technical Report at Appendix 4 summarises the material planning issues raised in the representations and the appraisal gives full consideration to the effects of the development upon the Keighley Central Ward.

In terms of the community consultation undertaken by the applicant, this comprised a pre-application consultation event at Temple Chambers, Russell Street, Keighley, on 22<sup>nd</sup> February 2017, which was publicised in the Keighley News beforehand. The applicant states that 15 people attended this event and that various queries were raised including queries relating to jobs, wildlife, flooding, design, footpaths and traffic. The applicant has further indicated that the scheme was modified following this consultation to provide for additional loading bays to be directly accessed from the raised spine road to allow products to continue to be loaded/ unloaded during flood events.

#### **9. NOT FOR PUBLICATION DOCUMENTS**

None

#### **10. RECOMMENDATIONS**

To rescind the resolution of the Regulatory and Appeals Committee made at the meeting of 28 March 2018 that 'Members are minded that planning permission should be granted and referred to the Secretary of State', on the basis that the Environment Agency letter of 04 May 2018 includes a Technical Assessment which is a material planning consideration relevant to the proper consideration and determination of planning application, ref. 17/05255/MAF by the Local Planning Authority.

To refuse planning permission for the formation of 8 structures housing 9 commercial units (B8 & B2 usage) with associated car parking, highways connection, drainage and landscaping on land north of Royd Ings Avenue, between the A629 and the River Aire for the reasons set out at the end of the Technical Report at Appendix 4

#### **11. APPENDICES**

Appendix 1: Environment Agency Letter of 04 May 2018

Appendix 2: Draft Planning Conditions

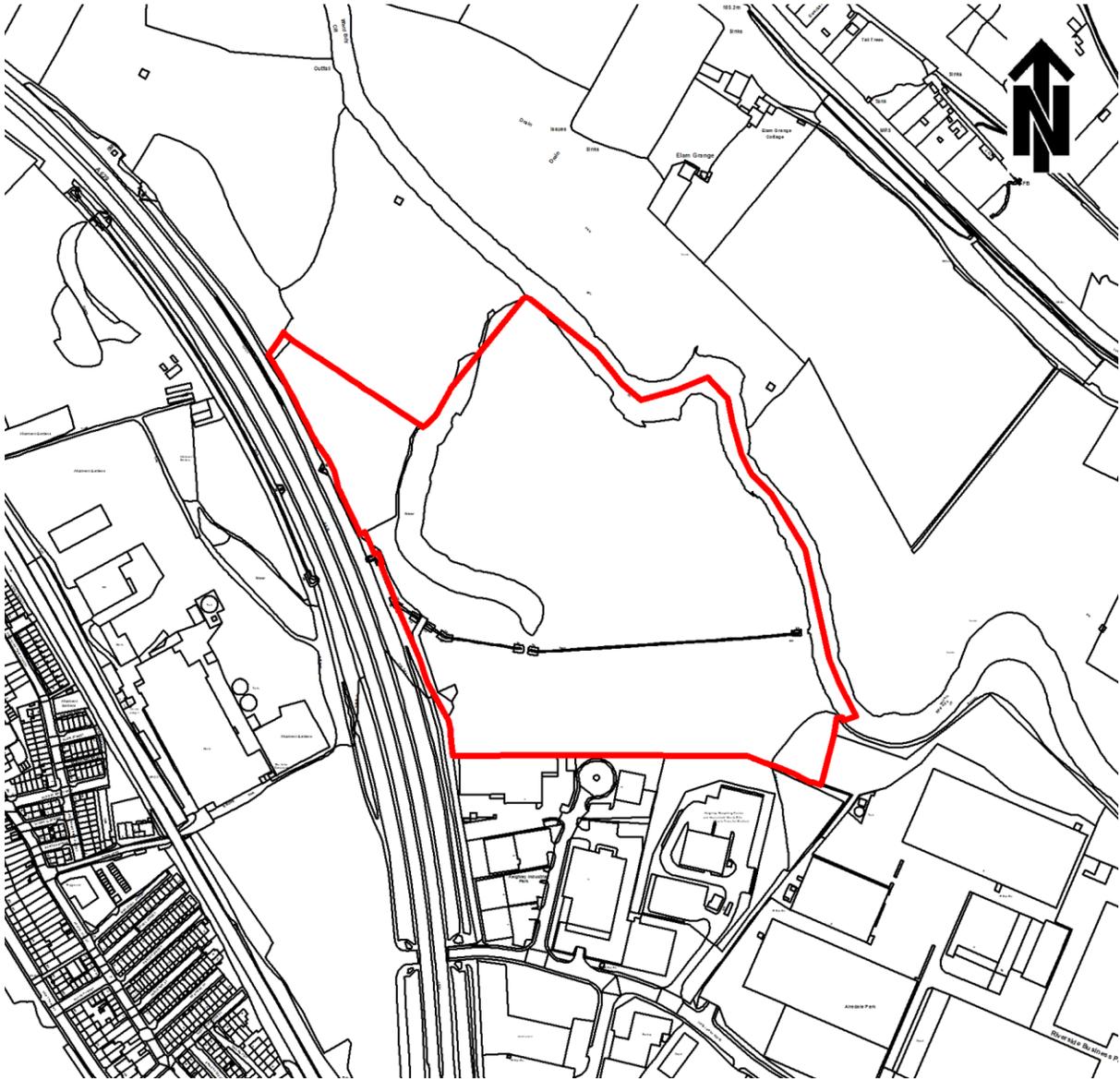
Appendix 3: Applicant Commentary on Draft Planning Conditions

Appendix 4: Planning Technical Report

#### **12. BACKGROUND DOCUMENTS**

- Adopted Core Strategy
- National Planning Policy Framework
- Application file 17/05255/MAF
- Decisions of the Regulatory and Appeals Committee on 28 March 2018

**17/05255/MAF**



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**Land At Keighley Industrial  
Park  
Keighley  
West Yorkshire**

creating a better place



Michael Eaglestone  
City of Bradford Metropolitan District Council  
Development Management

**Our ref:** RA/2017/137605/03  
**Your ref:** 17/05255/MAF

**Date:** 4 May 2018

via email:  
michael.eaglestone@bradford.gov.uk

Dear Michael

**Land at Keighley Industrial Park, Keighley West Yorkshire.**

**Proposal: formation of 8 structures housing 9 commercial units (B8 & B2 usage) with associated car parking, highways connection, drainage and landscaping;**

**Reconsultation following committee resolution to approve the application.**

Thank you for your consultation regarding the above proposed development following the committee resolution to approve the proposal and for the application to be referred to the Secretary of State.

In the attached Appendix, we reaffirm our original position of objection to the proposals and provide justification for this position.

If I can be of any further assistance, please don't hesitate to contact me.

Yours sincerely

Fraser Tomlinson  
Sustainable Places (Yorkshire)

Email: [fraser.tomlinson@environment-agency.gov.uk](mailto:fraser.tomlinson@environment-agency.gov.uk)  
Direct Dial: +442030254923

**Appendix:**

- Environment Agency Position
- Planning Policy
- Technical Assessment
- Response to draft Committee Resolution

### **Environment Agency Position**

We are unable to remove our objection to this proposal and this document sets out our position and gives explanation and reasoning.

The application must be referred to the Ministry of Housing, Communities and Local Government National Planning Casework Unit (NPCU) under the [Town and Country Planning \(Consultation\) \(England\) Direction 2009: circular 02/2009](#).

### **Planning Policy**

Below is a summary of the planning policies which we feel are relevant to our remit. The Bradford Core strategy (adopted July 2017) and contained policy states;

#### **EN7 – Flood Risk**

- A. The Council will manage flood risk pro-actively and in assessing proposals for development will:
  - 4. Safeguard potential to increase flood storage provision and improve defences within the Rivers Aire and Wharfe corridors
  - 7. Require that all sources of flooding are addressed, that development proposals will only be acceptable where they do not increase flood risk elsewhere and that any need for improvements in drainage infrastructure is taken into account
- B. The Council will not permit development in areas shown as functional floodplain in the Bradford SFRA, with the exception of water compatible uses and essential infrastructure.

#### **Sub Area Policy AD1: Airedale**

##### **D. Environment**

- 4. Protect and enhance river, beck and canal corridors, their value for biodiversity and heritage, potential for reducing flood risk and role in improving connectivity between urban and rural areas. Recognise that development could lead to opportunities for improving green infrastructure and flood storage provision, particularly in relation to the Upper Aire.

We consider the proposed development conflicts with the above mentioned local planning policies, firstly that part B states that the Council will not permit development in areas shown as functional floodplain (Flood Zone 3b) in the SFRA. The proposed development would also conflict with the aim to safeguard the potential to increase flood storage provision, and we consider there has been insufficient demonstration within the submitted information that the proposal does not increase flood risk elsewhere.

### **Site Allocation**

We understand the application site was previously allocated within a pre-2015 Unitary Development Plan, as employment land. However this was subsequently removed by Bradford MDC given the site location being within functional flood plain, concern over flood risk mitigation grounds and with alternative employment land being brought forward.

### **National Planning Policy**

The Government's national planning policies are set out in the NPPF, which are material considerations for all planning applications.

Practice Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3b (*functional floodplain*) defined by the Practice Guide to the NPPF as comprising land where water has to flow or be stored in times of flood. Local planning authorities should identify in their Strategic Flood Risk Assessments areas of functional floodplain and its boundaries accordingly, in discussion with the Environment Agency.

The development type in the proposed application is classified as 'Less Vulnerable' in accordance with table 2 of the Practice Guide to the NPPF. Tables 1 and 3 of the Practice Guide to the NPPF make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

### **Sustainable Development**

The report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee held on 8 March 2018 concludes that it is not considered that the proposed development can be considered Sustainable Development within the meaning of the NPPF.

The NPPF supports the planning system in achieving sustainable development and there is a presumption in favour of sustainable development. This presumption only applies, however, if the development plan is absent, silent or out of date. As Bradford have an adopted Core Strategy (adopted 18 July 2017) the presumption appears not to be relevant. In any case, footnote 9 of paragraph 14 of the NPPF excludes development in flood risk areas from this presumption.

### **Sequential and Exception Tests**

The applicant has submitted sequential test evidence with the application, however following the assessment of this evidence by officers at Bradford Council, the sequential test was not considered to have been passed, as detailed in the Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee held on 8 March 2018 (The Committee Report). On the basis that the sequential test has shown that there are reasonably available, lower risk sites to which the proposed development could be steered, permission can and should be refused. Only where it has been demonstrated that to steer the development to these alternative sites would be inconsistent with wider sustainability objectives, should the council have moved on to undertake the Exception Test. The Committee Report goes on to conclude that the Sequential Test and Exception Test should not have been considered at all, on the basis that the NPPF and the supporting PPG (Planning

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Practice Guidance) make it clear applications for 'less vulnerable development' are not appropriate in Flood Risk Zone 3b.

Despite the view that the Sequential Test has not been passed, The Committee Report discusses the Exception Test and concludes that the second part of the test has not been passed on the basis that 'development has not been shown to be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'. We agree with and support this position. The Committee Report contains no discussion of the first part of the Exception Test. Paragraph 102 of the NPPF is clear that both elements of the exception test must be passed for development to be permitted.

In summary of the above, neither the Sequential Test or Exception Test should be applicable to the proposed development. Irrespective of this, consideration of both tests has concluded that neither test could be passed.

### **Planning Policy Summary and Conclusion**

We consider that the proposed development is contrary to both local and national planning policy. This is supported by the technical consideration of tangible impacts on flood risk of the proposed development. Further information is provided below.

### **Unacceptable Precedent**

We also have a significant concern that the proposed development would set a harmful precedent – there are large areas of Flood Zone 3b in the Keighley area that could also attract similar planning applications should planning permission be granted. Were permission to be granted on this site, it would be difficult to resist further development of this type in other areas of functional floodplain in Keighley and beyond. This could lead to large amounts of development being built in areas that flood frequently now and which will flood even more frequently in future as climate change increases peak river flows substantially (by 30-50%). This would expose people and property to frequent flooding, result in significant cumulative losses of floodplain storage, and hinder the ability to adapt to the impacts of climate change by constraining the functional floodplain and restricting options for future flood risk management infrastructure.

### **Technical Assessment**

We have made a technical assessment of the proposed development.

The proposed development includes an extension to an industrial area. This extension is located within an area classified as being within Flood Zone 3b (functional flood plain) and is designated on the Flood Map for Planning as being a flood storage area.

The applicant has presented an argument that the use of measures including elevating elements of the proposed development on stilts and the use of floodable voids and 'flood tubes' will mitigate the flood risks associated with the proposed development in this location and therefore it will not increase flood risk elsewhere.

We do not agree that this has been demonstrated within the submitted information and our detailed technical assessment of this is set out as follows. The information below explains the realities of why we believe that this proposal poses an unacceptable increase in flood risk.

### **Site Details & Flood Risk**

The following summarises some technical details about the site and its flooding history:

- Site size - approximately 10.7 Hectares
- Flood Zone 3b and designated as a flood storage area on the flood map for planning
- The site flooded in Dec 1978, Jan 1982, Feb 1995, Autumn 2000, Feb 2002, December 2015 – We have photographic evidence that the site flooded on 3 April 2018.
- Actual flood level recorded during Autumn 2000 = 86.35mAOD
- Site levels are currently between 81.7mAOD and 86.58mAOD

### **2008 Upper Aire Strategy Model**

A flood model was produced by Atkins Consultancy in 2008 for the Environment Agency. The purpose of this model was to determine modelled levels for a range of flood events, investigate possible future scenarios of climate change, urban growth and rural land use change and model a 'Do Nothing' option for comparison with other flood management options.

Data from the above flood modelling study is available for use in assessing the level of flood risk on a site specific basis. Data was used in the FRA submitted in support of this application.

Modelled flood levels representing a defended scenario, taking climate change into account, at a particular point (Node 2672301472A), close to the site reach 85.94mAOD.

The data point (node) used in the FRA submitted in support of the proposed development is 02672301325A. Modelled flood levels at this point reach 85.86mAOD.

This node is in the middle of the site, not upstream of the site. This is not considered as representative of flood risk on the site and therefore not as appropriate for the assessment, as the upstream node 2672301472A.

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### **Flood Risk Assessment**

As the development is classified as 'less vulnerable' and is located within Flood Zone 3b, it is not considered appropriate development, as detailed above. As such the technical assessment of flood risk should not be relevant, from a planning policy perspective. Irrespective of this, a Flood Risk Assessment (FRA) by Flood Risk Consultancy Limited, report number 2016-124 Revision A, dated 19/12/2016, has been submitted with the application. In light of the Planning Committee's decision to grant permission, we have reviewed the FRA and we do not consider that it complies with the Planning Practice Guidance. The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular the document raises the following concerns. The following details our position on the FRA.

The Committee Resolution paper states that 'There is no recent evidence of flooding'. We consider that historic flooding of the site has not been fully assessed, in particular the 2015 flood event has not been considered in the FRA. We have also been provided photographic evidence by the case officer at Bradford Council that the site was recently flooded in April 2018.

The FRA does not include full consideration of climate change as set out in our guidance '[Flood Risk Assessments: climate change allowances](#)'. The FRA includes an assessment of climate change based on The 2008 Upper Aire Model and an increase in peak river flow of 20%.

Given that the site lies in Flood Zone 3b (irrespective of the fact that the development type is inappropriate), a climate change assessment based on a 20% increase in flow is not considered appropriate, for the following reasons:

- The impact of the development on risk elsewhere is key in this case. 'More Vulnerable' uses are likely to be impacted by the proposed development. As such, the higher central (30%) and upper end (50%) allowances would be more appropriate.
- The only development types considered appropriate for FZ3b are 'water compatible' and 'essential infrastructure'. These require the use of the higher central (30%) and upper end (50%) allowances respectively. It follows that an assessment for any type of development in FZ3b should be based on these standards as a minimum.

Flood depths on-site may reach in excess of 2.5m (stated in the FRA). This helps to demonstrate the potential volumes of water that could be expected on site which could be displaced or interrupted by the proposed development. This is an under-estimate given the lower climate change allowance of 20% has been used.

The FRA demonstrates that site users could be exposed to flooding with a hazard classification of 'danger for all' as set out in the R&D Technical Report FD2320/TR2 - Flood Risk Assessment Guidance for New Development. Flood hazard is a function of depth, velocity and a debris factor. This means it is considered too dangerous for even the emergency services during a flood event.

There is no evidence that the proposed development, including the proposed mitigation (stilts, voids and flood tubes) will not result in an increase in flood risk to others.

We don't consider the use of stilts, voids and flood tubes to be appropriate floodplain compensation as discussed further below. Irrespective of this, the submitted FRA does not include sufficient information to demonstrate that the proposed compensation could actually function in such a way to fulfil its intended purpose.

The FRA has not adequately assessed the impacts of the proposed raised areas on flood risk to others, for the lifetime of the development.

The original plans and submitted FRA are contradicted by recent correspondence from the applicant's agent, dated 6 March 2018. This describes a different proposal to the other submissions. For instance, there are inconsistencies in the amount of the site which is proposed to be raised above current levels. Without clear details of the proposals and associated assessment of the impacts, it is not possible to determine what the impacts of the proposed development will be. More importantly, it is not possible to conclude that there will not be any unacceptable increases in flood risk.

### **FRA Mitigation Proposals**

We have assessed the mitigation proposals outlined in the FRA and have provided comments, in bullet points and red text below;

*"Finished floor levels (FFL) set at 600mm above the historical flood level for the development site i.e. a minimum of 86.95mAOD."*

- We agree that raising FFL at least 600mm above the historic flood level is likely to be acceptable, but this would need to be re-visited once appropriate allowances for climate change have been included. This measure does not in itself make the proposed development acceptable.

*"Voids are incorporated under the building units and ramped access route into the site from Royd Ings Avenue to minimise the displacement of flood water on-site, which may otherwise increase flood risk to others."*

- We do not agree with this mitigation as there is a likelihood that the voids and/or their screens will silt up and cannot be relied upon for the lifetime of the development. Furthermore, we have not been provided with sufficiently clear or detailed designs for the voids. See below.
- We do not agree with this mitigation because it has not been demonstrated that this will provide full mitigation of the impacts of the development on flood risk.

*"The void areas are to be kept clear of objects i.e. not used as storage space to facilitate the unrestricted flow and ebb of flood water routes throughout the site."*

- We do not agree with this mitigation, as there is no demonstration of management/maintenance plans and we consider that fenced voids do not equate to unrestricted flood flow routes. Flood waters routinely carry debris such as silt, sediment, litter and vegetation, particularly in urban areas such as this. Such debris can block debris screens or fill voids, preventing or restricting the free flow of water. No information has been provided on how flood waters will be removed from the voids following a flood.

*"Void areas are to be fenced appropriately with gated access to prevent unauthorised access e.g. homeless/vulnerable persons or children."*

- We do not agree with this mitigation as there is no demonstration of management/maintenance plans. Fenced areas do not equate to unrestricted flows of flood water across the site.

*"No land raising is permitted otherwise within the site, to prevent displacement of flood storage volume."*

- We do not accept this mitigation as this statement is unclear. The use of the word 'otherwise' implies that some land raising is permitted, however, it has not been demonstrated that any land raising is acceptable.

*"Appropriate warning signs are erected in prominent positions around the site, to ensure staff and visitors are aware that the site is liable to flooding."*

- We agree that appropriate flood warning measures through the site should be implemented, but only if an acceptable development proposal is put forward. This, in itself does not make the proposed development acceptable.

*"Any compensatory flood storage which may be required must be provided on a level by level basis up to and including the 1 in 100-year return period event. It is noted that this volume, if required, must be outside the existing flood extent for the corresponding return period, within or as close to the site as possible."*

- We do not agree with this mitigation as compensation cannot be provided within the site (as the entire site lies within Flood Zone 3) and no information has been provided to show whether it could be provided outside the site.
- We do not agree with this as the statement does not include an allowance for climate change. We consider an appropriate allowances to be a 50% increase in peak river flows.
- We do not agree with this as compensation must also be volume for volume and the proposed stilt and void mitigation cannot be provided on a volume for volume basis.

*"Owners/occupiers of the industrial units must register for flood alerts and an interest in receiving flood warnings from the Environment Agency."*

- We agree that registration to the flood warning service would be an appropriate measure, but this is only applicable if an acceptable development proposal is put forward. This in itself does not make the proposed development acceptable.

*"Robust flood warning/evacuation plan are highly recommended ensure the safe relocation of all staff and visitors if required."*

- We agree that robust flood emergency planning would be required, but this is only applicable if an acceptable development proposal is put forward. This in itself does not make the current proposal acceptable. Emergency planning does not overcome the impacts on offsite flood risk.

*"It is recommended that a first floor or mezzanine level is provided within the industrial units to provide an additional place of safety or refuge, in case evacuation is not possible."*

- We agree that an appropriately designed first floor or mezzanine level could provide a place of refuge, but this is only applicable if an acceptable development proposal is put forward. This would need to be assessed by the council's emergency planning officers. This measure in itself does not make the current proposal acceptable. The provision of a place of refuge does not mitigate against the impacts on offsite flood risk.

### **Stilts and voids**

Our position on the use of stilts and voids is as follows.

The use of stilts and voids is not true floodplain compensation, but rather mitigation of risk by design. True level for level and volume for volume compensation should replace lost floodplain storage without changing the flooding mechanisms at all. The use of stilts reduces the impact of the development but does not guarantee that the floodplain will be retained in the same way as a true level for level and volume for volume compensation scheme and therefore does not guarantee that the development will not increase flood risk.

An example of where stilts or voids could be considered appropriate is where a replacement dwelling of similar footprint is proposed on the site of an existing building, wholly within Flood Zone 3. This approach would potentially provide a flood risk benefit compared to no compensation. This would only be considered acceptable if it could be clearly demonstrated that a conventional scheme could not be achieved, as well as a plan being agreed between the applicant and the local planning authority to ensure that the voids are managed and maintained for the lifetime of the development. The proposal in question here does not fall into the above category and the development, with associated use of stilts and voids represents an increase in flood risk rather than a reduction.

The voids proposed below the buildings appear to be lower than the ground levels and are designed to have mesh between stilts.

This should not be considered as appropriate compensation as it is highly likely to silt up over time and become non-functional.

This is also not an appropriate mitigation as the proposed voids could be filled with water from a previous flood event, for example, and therefore not be available for the required storage capacity.

In addition to the above, insufficient technical detail about the mitigation has been provided, such as the height of the void soffit and other information required to demonstrate how the mitigation would fulfil its intended purpose.

In order for us to consider any flood compensation measures acceptable, the developer would need to prepare suitably detailed plans and calculations in their flood risk assessment to demonstrate how they will achieve 'no net loss' of floodplain storage and no alteration of flood mechanisms that could result in increased risk now or in the future. No such information has been provided.

Developers must also include an appropriate allowance for climate change when designing their development, **including any storage proposals**, and should seek to create a net flood risk benefit wherever possible. Climate change has not been adequately considered in the storage proposals.

### **Leeds and Bradford Flood Alleviation Schemes**

Phase 2 of the Leeds Flood Alleviation Scheme (FAS) is taking a catchment-wide approach. This means the entire River Aire catchment area, including Bradford District, is being considered to help reduce flood risk in Leeds. This approach includes the adoption of a combination of Natural Flood Management (NFM) and engineered measures to help manage flood flows and water further up the catchment so that flood peaks are reduced further downstream. Bradford District is supporting the Leeds FAS Phase 2 Scheme by providing land space within its borders for the NFM element of the Leeds FAS.

The Bradford Aire Catchment Flood Alleviation Scheme is currently exploring 12 key sites between Stockbridge in Keighley and Apperley Bridge, to include flood storage and natural flood management.

NFM techniques used as part of the FAS are described on [Leeds City Council's Website](#) as including: "proposals to create new woodland areas which would more than double canopy coverage in the River Aire catchment. Water storage areas will be created and developed, operated by a control gate system meaning water can be held and then released back into the river when safe to do so". Aims of the FAS also include: "creating new woodland areas by planting hundreds of thousands of trees, land management to reduce run off, river and flood plain restoration including re-meandering of the river channel in certain areas and smaller storage ponds."

Critically, Leeds City Council's Website mentions: "The range of measures currently proposed include: a programme of NFM works introduced over the next 30 years with the aim of sustaining the standard of protection in the face of climate change up to 2069."

Granting planning permission to actively develop within existing functional flood plain (FZ3b) that would displace flood waters and flows, would set a precedent for future development proposals and would undermine the goals of this collaborative approach and, in doing so, jeopardise the sustainability and resilience of existing downstream development. Such a precedent is unacceptable.

### **Environmental Permitting**

Elements of the development, including temporary works, will require a Permit for Flood Risk Activities, under the Environmental Permitting Regulations 2016, in addition to planning permission. On the basis of the information that has been submitted in support of the planning application, we would not be in a position to issue a permit. A permit is required before any relevant work can proceed at the application site.

### **Response to draft Committee Resolution**

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We have reviewed the draft committee resolution and have the following comments to make which are made in red in the below text;

LAND TO THE NORTH OF ROYD INGS AVENUE (BETWEEN THE A629 AND THE RIVER AIRE), KEIGHLEY

*“Resolved –*

*Members are minded that planning permission should be granted and referred to the Secretary of State, in coming to this conclusion Members consider there are very special circumstances that warrant the grant of “inappropriate development” in the Green Belt for the following reasons:”*

- (i) *“The site was previously allocated as an employment site and such allocation was principally removed because the site was at risk of flooding. The applicant has now demonstrated that the site can be developed without an increased risk of flooding.”*
  - This has not been demonstrated. There is no evidence provided in the FRA or other supporting documents to show that the loss of storage and obstructions within the functional floodplain do not increase flood risk to others.
- (ii) *“Not all of the site is within the Green Belt and there is a proven need for employment land within the District that cannot be met.”*
  - We are not in a position to comment on matters relating to the green belt. This statement implies there are no alternative sites, but the sequential test identifies that there are four available sites. The sequential test identified alternative, lower risk sites. This implies development could be delivered more sustainably elsewhere. In addition, the sequential test does not ask whether all the district’s need can be met outside flood risk areas, it asks only whether the proposed development could be steered elsewhere.
- (iii) *“There is no recent evidence of flooding and works of flood alleviation are taking place further upstream.”*
  - The site was flooded in December 2015 and on 3 April 2018 (we have photographic evidence). The upstream works alluded to form part of the Leeds FAS etc. These works are not being undertaken to unlock land for development. The works are funded on the basis of reducing risk to existing development, and improving their resilience to climate change.
- (iv) *“The applicant had demonstrated through a sequential test that there are no other suitable employment sites within the vicinity of Keighley to accommodate the proven need.”*
  - The Report by the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee held on 8 March 2018 states that this proposed development does not pass the sequential test.

*“And in addition to the above, before being referred to the Secretary of State, the Assistant Director, Planning, Transportation and Highways shall produce a list of relevant planning conditions in consultation with the applicant, and thereafter the Chair and Deputy Chair of*

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*the Committee, which shall include all appropriate conditions for a development of this scale and nature. These conditions shall include:*

- (i) The provision of maintenance of flood alleviation measures to ensure continued operation.*
- (ii) The incorporation of all appropriate sustainable measures that will not preclude the commencement of development.*

*ACTION: Assistant Director, Planning, Transportation and Highways”*

- Based on our view that this development proposal represents an unacceptable increase in flood risk and is contrary to local and national planning policy, we maintain that planning permission should not be granted. We consider that the only way to ensure that there is no unacceptable increase in flood risk is to ensure that this development does not go ahead. As such we do not consider that it is appropriate to recommend planning conditions.
- Despite the above, if the Secretary of State refers the decision back to the Local Planning Authority, who are minded to grant permission, contrary to the advice and evidence presented above, then it is crucial that the development is not allowed to go ahead completely unmitigated. It is important that there is a mechanism to ensure that the impacts of the development, on flood risk, are kept to a minimum. It is imperative that we are given the opportunity to comment further and influence any conditions or obligations to be appended to any decision. We would like to reiterate the additional need for an Environmental Permit before any relevant works can commence. On the basis of the information provided to-date, any such permit application is likely to be refused.

## Appendix 2

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

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

2. No development shall take place until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off -site works, have been submitted to and approved by the local planning authority. The submitted drainage proposals shall be based on drainage principles that promote water efficiency and water quality improvements through the use of SUDS and green infrastructure to reduce its effect on the water environment. The maximum pass forward flow of surface water from the development site shall be restricted to the equivalent predevelopment greenfield runoff rate QBAR. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved drainage works.

Reason: In the interests of providing for the appropriate drainage of the site, in accordance with Core Strategy Policy EN7.

3. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is appropriately drained, in the interests of the protection of the environment and the reduction of flood risks, in accordance with policy EN7 of the Core Strategy.

4. The surface water drainage infrastructure serving the development shall be managed in strict accordance to the terms and agreements, over the lifetime of the development, as set out in a Surface Water Drainage Maintenance and Management document to be submitted to the Lead Local Flood Authority for approval.

Reason: In the interests of providing for the appropriate drainage of the site, in accordance with Core Strategy Policy EN7.

5. The development shall not begin until a phasing plan, showing details of the phasing of site preparation and construction works has been submitted to and approved in writing by the local planning authority. The phasing plan shall show details of the phasing of the cut-fill works, piling/ stilt installation, access road construction, building construction, drainage, landscaping and footpath diversion work. Thereafter the development shall only proceed in strict accordance with the approved phasing plan.

Reason: To ensure that the development of the site is appropriately phased and controlled, in accordance with Core Strategy Policy EN8.

6. The development shall not begin until full plans and details of facing materials of the buildings hereby approved, have been submitted to and approved in writing by the local planning authority. The submitted details shall include elevations, floor plans, roof plans, materials samples and architectural detailing. Thereafter the buildings hereby approved shall only be constructed in strict accordance with the approved plans and materials.

Reason: To ensure the buildings are appropriately designed in the interests of amenity and landscape and to accord with Policies DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

7. The development shall not begin until full details of the earthworks to be undertaken to achieve the ground levels shown on drawing 705 208 Rev. A have been submitted to and approved in writing by the local planning authority. The submitted details shall include details of the cut-fill volume, method of excavation and fill placement, associated HGV movements and the measures which will be put in place to mitigate the environmental effects of the operation including discharges to ground, air and water and the protection of the river bank. Thereafter the earthworks shall only be undertaken in strict accordance with the approved details.

Reason: To ensure that the earthworks are properly controlled and do not result in significant environmental harm, in accordance with Core Strategy Policy EN8.

8. The development shall not begin until full construction details and specifications of the site access road and associated ramps, parking, servicing and turning areas, have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of the means by which the access road shall be constructed and raised above the floodplain and the flood water storage provisions which will be incorporated within the road design. Thereafter the access road, parking, servicing and turning areas shall be constructed in strict accordance with the approved details either prior to the buildings hereby approved being brought into use or in accordance with the provisions of an approved phasing plan.

Reason: To ensure that the highway infrastructure works are properly controlled and put in place prior to the use commencing, in accordance with Core Strategy Policies TR1, TR2 and EN8.

9. The development shall not begin until full construction details and specifications of the piles/ stilts upon which the buildings are to be raised have been submitted to and approved in writing by the local planning authority. The submitted details shall include method statements for piling works and the means by which the buildings will be constructed on top of the stilts. Thereafter the piling works, stilt installation and building construction shall only proceed in strict accordance with the approved details.

Reason: To ensure that the piling/ stilt works are properly controlled and do not result in significant environmental harm, in accordance with Core Strategy Policy EN8.

10. The development shall not begin until full details of the means by which the existing drainage infrastructure crossing the site will be protected from the development, have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the easements which will be provided to underground drainage infrastructure, protection of outfalls and any consequential site layout adjustments which are required to provide for the adequate protection of drainage infrastructure. The development shall thereafter only proceed in strict accordance with the approved details.

Reason: To provide for the protection of the existing drainage infrastructure crossing the site, in accordance with Core Strategy Policies EN7 and EN8.

11. The development shall not begin until an ecological survey of the whole site, including the oxbow wetland, has been submitted to and approved in writing by the local planning authority. The submitted details shall include proposals to mitigate the assessed ecological harm which the development would cause, including the harm caused by the loss of the oxbow wetland, in addition to the proposals shown on the Ecological Habitat Plan, ref. 1074 Rev. 1. Thereafter the ecological enhancement and mitigation measures shown on the Ecological Habitat Plan, ref. 1074 Rev. 1, together with the additional measures to mitigate the ecological harm caused by the development approved under this condition, shall be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: In the interests of properly quantifying the harm which will result from the loss of the oxbow wetland on the site and providing for the proper mitigation of that harm, in accordance with Policy EN2 of the Core Strategy.

12. The development shall not begin until full details of the landscaping works illustrated on drawing 705 206 Rev. A have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping works shall thereafter be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: To ensure the proper landscaping of the site in the interests of amenity, ecology and landscape and to accord with Policies EN4, DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

13. None of the buildings hereby approved shall be brought into use until full details a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be implemented in full in accordance with the approved details.

Reason: To ensure proper management and maintenance of the landscaped areas in the interests of amenity, ecology and landscape and to accord with Policies DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

14. The development shall not begin until full details of boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall thereafter be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: In the interests of security, amenity and landscape, in accordance with Core Strategy Policies EN4, DS1, DS2, DS3, DS4 and DS5.

15. The development shall not begin until full details of the proposed diverted footpath have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of the route, width, surfacing, fencing and lighting of the footpath. The approved footpath works shall thereafter be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: In the interests of ensuring that existing rights of way are not detrimentally affected by the development in accordance with Core Strategy Policies DS1, DS2, DS3, DS4 and DS5.

16. The following security measures shall be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan:

- i. 24 hour security office located at access point of the site;
- ii. 2.4m high palisade fencing installed around the perimeter of the site (other than at security gate at site entrance) and palisade fencing to prevent any access to the grills which cover underneath the elevated buildings;
- iii. CCTV will cover the whole of the site and will be monitored by the security office;
- iv. Individual units will have an intruder alarm installed to BS EN 50131;
- v. Doors and windows to achieve one of the following standards; PAS 24:2012, LPS 1175 issue 7 SR2, STS201/STS 202 issue 3 BR1. Aluminium door sets/ windows can achieve PAS 24:2012 and BS 4873:2009;
- vi. Shutters for delivery areas to achieve one of the following standards; LPS 1175 issue 7 SR1 or STS 202 issue 3 SR1 or above;
- vii. low energy photo-electric cell / dusk till dawn lights which cover the entrances and parking areas to increase natural surveillance.

Reason: In the interests of security, in accordance with Core Strategy Policy DS4.

17. A Low Emission Strategy for the operations at the site and its associated road transport shall be submitted for approval in writing by the Local Planning Authority 12 months from implementation of the planning decision notice. The Low Emission Strategy shall include amongst other matters;

- i. Details of infrastructure to be provided at the site to encourage and promote the uptake of low emission vehicles on the site. This shall include as a minimum detailed arrangements for the provision of:
  - a. workplace and visitor EV charging facilities (including long term maintenance plans for such infrastructure)

- b. preferential parking arrangements for low emission and multi-occupancy vehicles visiting the site
  - c. provision of cycle infrastructure across the site including secure cycle storage and storage / changing facilities for employees at the site
  - d. measures to prevent and discourage vehicle idling at the site (e.g anti-idling signage, plug in points for refrigerated vehicles during loading etc)
  - e. pedestrian access routes linking the site to public transport provision
  - f. staff incentives to use public transport to access the site
- ii. Measures to reduce and off set the wider emission impacts of HGV and LGV fleets operating out of the site. As a minimum this shall include:
- a. Arrangements for provision of a bespoke fleet management and recognition service for the site for a minimum period of 5 years. Access to this service shall be available free of charge to all tenants of the site operating fleets of more than 5 HGVs or LGVs from the site (including bus and minibus services). Signing up to the fleet management and recognition service shall be made a mandatory requirement of tenancy agreements issued for the units.
- iii. A full review of opportunities to invest in the reduction of emissions from public service vehicles operating within the locality of the site as a means of offsetting emissions from the additional HGV and LGV movements arising from this development. As a minimum this shall include a review of emission standards on local bus services and community transport vehicles and the cost of upgrading these to a minimum of Euro 6 standard via retrofitting of existing vehicles or replacement with new vehicles. A five year schedule of investment in public transport improvements to off set HGV and LGV emissions from the site shall be agreed with City of Bradford MDC within six months of submission of the low emission strategy.

The Low Emission Strategy shall have targets and associated timescales for emission reduction with expected emission savings quantified in line with the most recent DEFRA IGB damage costs. At the end of each calendar year (for a five year period following the first LES submission) an implementation plan shall be submitted for approval in writing by the Local Planning Authority, which on approval shall be fully implemented in accordance with the details and measures so approved. This shall include a schedule of investment in off site low emission public transport measures to off set the emission impact of the development.

The Low Emission Strategy shall take into account future changing emission standards and after the initial 5 year period will require updating at a rate to be agreed with the Local Planning Authority. In setting the timescale for future updates the Local Planning Authority will have due regard to air quality conditions within the district at that time and the need for further emission reduction.

Reason: To minimise the emission impact of the development in line with the requirements of the Bradford and West Yorkshire Low Emission Strategies and the air quality and climate change requirements of the NPPF and to accord with Core Strategy Policy EN8.

18. Before any part of the development is brought into use full details of the provision of electric vehicle charging points to serve the new parking spaces shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the electric vehicle charging provisions shall be fully implemented either before any part of the development is brought into use or in accordance with an alternative timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is constructed in an appropriate sustainable manner which takes into consideration air quality within the District, and takes into consideration paragraph 35 of the National Planning Policy Framework and policy EN8 of the Core Strategy.

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

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy EN8 of the Core Strategy.

20. A methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils shall be submitted to, and approved in writing by the Local Planning Authority prior to materials being brought to site.

Reason: To ensure that all materials brought to the site are acceptable, to ensure that contamination/pollution is not brought into the development site and to comply with policy EN8 of the Core Strategy.

21. No industrial process shall take place, and no materials, goods or containers shall be stored, outside of the buildings shown on the approved drawings, other than in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that no external storage and processing takes place, in the interests of amenity, landscape and maintaining adequate parking and vehicle manoeuvring space, in accordance with policies EN8 and TR2 of the Core Strategy.

22. The employment units hereby approved shall not be brought into use until evidence has been submitted to and approved in writing by the Local Planning Authority that the development will meet the BREEAM Very Good standard. Thereafter the development shall only proceed in accordance with the approved details and any approved measures required to meet the BREEAM Very Good standard shall be implemented in full and maintained whilst ever the development subsists.

Reason: To facilitate sustainable economic growth within the District, in accordance with the provisions adopted Core Strategy policy EC4.

23. All works on site shall be undertaken in accordance with the submitted Construction Environmental Management Plan, ref. AQ104892-2R1 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect amenity and health of surrounding residents in line with the Council's Low Emission Strategy and the National Planning Policy Framework (NPPF) and Core Strategy Policy EN8.

24. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any subsequent legislation, no development works whatsoever shall be begun until a plan specifying arrangements for the management of the construction site has been submitted to and approved in writing by the Local Planning Authority. The construction plan shall include the following details:

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

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

Reason: To ensure the provision of proper site construction facilities on the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies TR1 and EN8 of the Core Strategy.

25. The development shall not begin until tree protection fencing and other tree protection measures have been installed around trees to be retained on or adjoining the site. These measures shall be in strict accordance with an Arboricultural Method Statement or Tree Protection Plan prepared in accordance with recommendations in BS5837:2012, details of which shall be submitted to and approved in writing by the Local Planning Authority before any demolition, site preparation or ground works are begun, and before any materials or machinery are brought on to the site.

The Local Planning Authority shall be informed when the tree protection fencing and other tree protection measures have been installed at the site and shall have given its written confirmation that the measures are acceptable before development proceeds.

Report to the Regulatory & Appeals Committee

Reason: To ensure that trees are adequately protected prior to development activity beginning on the site in the interests of amenity and to accord with Policy EN5 of the Core Strategy Development Plan Document.

26. The agreed tree protection measures, shall remain in place, and shall not be moved, removed or altered for the duration of the development without the prior written consent of the Local Planning Authority. There shall be no excavations or alteration of ground levels within the tree protection areas/construction exclusion zones created on the site, and no engineering or landscaping works, service runs, or installations shall take place and no materials shall be stored within them without the prior written consent of the Local Planning Authority.

Reason: To ensure that trees are adequately protected for the duration of development activity on the site, in the interests of amenity and to accord with Policy EN5 of the Core Strategy Development Plan Document.

27. Notwithstanding the flood mitigation proposals contained in the supporting information, the development shall not begin until a 2D Hydraulic flood model of the River Aire, to show how alterations to current ground levels within the site, for each phase of the development, will not increase flood risk upstream or downstream from the development site has been submitted to and approved in writing by the Local Planning Authority. Where this is found not to be achievable the flood mitigations should be shown to minimise any increase in flood risk as far as is practicably possible. The submitted details shall also include the methodology and results of this modelling together with any recommendations for adjustments to the development scheme required to ensure that the development does not increase flood risks. The development shall thereafter only proceed in strict accordance with the approved mitigation measures and the site shall be re-profiled, phased and constructed in accordance with the approved details.

Reason: In the interests of the protection of the environment and the reduction of flood risks, in accordance with policy EN7 of the Core Strategy.

28. None of the individual employment units hereby approved shall be brought into use until a Flood Emergency Evacuation Plan for that unit has been submitted to and approved in writing by the Local Planning Authority. The Flood Emergency Evacuation Plan shall thereafter be implemented in full whilst ever the relevant unit remains in use.

Reason: To ensure that robust flood emergency planning is in place, in accordance with policy EN7 of the Core Strategy.

Appendix 3

Approved plans

Comment [MOU1]: I have checked the approved plans and they are correct but it misses our ecology enhancement plan

CONDITIONS AND ASSOCIATED REASONS:

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

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

[FLOOD RISK MITIGATION CONDITIONS TO BE INSERTED]

2. No development shall take place above foundation level until details of the proposed means of disposal of foul and surface water drainage, including details of any balancing works and off -site works, have been submitted to and approved by the local planning authority. The submitted drainage proposals shall be based on drainage principles that promote water efficiency and water quality improvements through the use of SUDS and green infrastructure to reduce its effect on the water environment. The maximum pass forward flow of surface water from the development site shall be restricted to the equivalent predevelopment greenfield runoff rate QBAR. Furthermore, unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved drainage works.

Comment [MOU2]: I would understand if this was for construction management but it is not

Reason: In the interests of providing for the appropriate drainage of the site, in accordance with Core Strategy Policy EN7.

3. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is appropriately drained, in the interests of the protection of the environment and the reduction of flood risks, in accordance with policy EN7 of the Core Strategy.

4. The surface water drainage infrastructure serving the development shall be managed in strict accordance to the terms and agreements, over the lifetime of the development, as set out in a Surface Water Drainage Maintenance and Management document to be submitted to the Lead Local Flood Authority for approval.

Comment [MOU3]: Doesn't state when to be submitted but would suggest above foundation level

Reason: In the interests of providing for the appropriate drainage of the site, in accordance with Core Strategy Policy EN7.

5. The development shall not begin until a phasing plan, showing details of the phasing of site preparation and construction works has been submitted to and approved in writing by the local planning authority. The phasing plan shall show details of the phasing of the cut-fill works, piling/ stilt installation, access road construction, building construction, drainage,

landscaping and footpath diversion work. Thereafter the development shall only proceed in strict accordance with the approved phasing plan.

Reason: To ensure that the development of the site is appropriately phased and controlled, in accordance with Core Strategy Policy EN8.

**Comment [MOU4]:** We feel this condition is covered by others and should be deleted. The condition is onerous and very open ended

6. ~~The development shall not begin~~ No development shall take place above foundation level until full plans and details of facing materials of the buildings hereby approved, have been submitted to and approved in writing by the local planning authority. The submitted details shall include elevations, floor plans, roof plans, materials samples and architectural detailing. Thereafter the buildings hereby approved shall only be constructed in strict accordance with the approved plans and materials.

Reason: To ensure the buildings are appropriately designed in the interests of amenity and landscape and to accord with Policies DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

7. The development shall not begin until full details of the earthworks to be undertaken to achieve the ground levels shown on drawing 705 208 Rev. A have been submitted to and approved in writing by the local planning authority. The submitted details shall include details of the cut-fill volume, method of excavation and fill placement, associated HGV movements and the measures which will be put in place to mitigate the environmental effects of the operation including discharges to ground, air and water and the protection of the river bank. Thereafter the earthworks shall only be undertaken in strict accordance with the approved details.

Reason: To ensure that the earthworks are properly controlled and do not result in significant environmental harm, in accordance with Core Strategy Policy EN8.

**Comment [MOU5]:** This is covered in condition 5 and so would want this deleted

8. The development shall not begin until full construction details and specifications of the site access road and associated ramps, parking, servicing and turning areas, have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of the means by which the access road shall be constructed and raised above the floodplain and the flood water storage provisions which will be incorporated within the road design. Thereafter the access road, parking, servicing and turning areas shall be constructed in strict accordance with the approved details either prior to the buildings hereby approved being brought into use or in accordance with the provisions of an approved phasing plan.

Reason: To ensure that the highway infrastructure works are properly controlled and put in place prior to the use commencing, in accordance with Core Strategy Policies TR1, TR2 and EN8.

**Comment [MOU6]:** Surely this is a building regulations matter?

9. The development shall not begin until full construction details and specifications of the piles/ stilts upon which the buildings are to be raised have been submitted to and approved in writing by the local planning authority. The submitted details shall include method statements for piling works and the means by which the buildings will be constructed on top

of the stilts. Thereafter the piling works, stilt installation and building construction shall only proceed in strict accordance with the approved details.

Reason: To ensure that the piling/ stilt works are properly controlled and do not result in significant environmental harm, in accordance with Core Strategy Policy EN8.

10. The development shall not begin until full details of the means by which the existing drainage infrastructure crossing the site will be protected from the development, have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the easements which will be provided to underground drainage infrastructure, protection of outfalls and any consequential site layout adjustments which are required to provide for the adequate protection of drainage infrastructure. The development shall thereafter only proceed in strict accordance with the approved details.

Reason: To provide for the protection of the existing drainage infrastructure crossing the site, in accordance with Core Strategy Policies EN7 and EN8.

11. The development shall not begin until an ecological survey of the whole site, including the oxbow wetland, has been submitted to and approved in writing by the local planning authority. The submitted details shall include proposals to mitigate the assessed ecological harm which the development would cause, including the harm caused by the loss of the oxbow wetland, in addition to the proposals shown on the Ecological Habitat Plan, ref. 1074 Rev. 1. Thereafter the ecological enhancement and mitigation measures shown on the Ecological Habitat Plan, ref. 1074 Rev. 1, together with the additional measures to mitigate the ecological harm caused by the development approved under this condition, shall be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: In the interests of properly quantifying the harm which will result from the loss of the oxbow wetland on the site and providing for the proper mitigation of that harm, in accordance with Policy EN2 of the Core Strategy.

12. ~~The development shall not begin~~ No works shall take place above foundation level until full details of the landscaping works illustrated on drawing 705 206 Rev. A have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping works shall thereafter be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: To ensure the proper landscaping of the site in the interests of amenity, ecology and landscape and to accord with Policies EN4, DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

13. None of the buildings hereby approved shall be brought into use until full details a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules, has been submitted to and approved in writing

**Comment [MOU7]:** Struggle to understand how this is a planning condition when the practicalities of the build would be picked up by building regs and the HSE

**Comment [MOU8]:** This would be default be covered by condition 2 when a scheme is submitted

**Comment [MOU9]:** We have already done an ecology survey and this cannot be conditioned. We have provided a habitat enhancement plan which was approved by committee members so this should be an approved plan on the approved plan list and this condition should be removed.

by the Local Planning Authority. The landscape management plan shall be implemented in full in accordance with the approved details.

Reason: To ensure proper management and maintenance of the landscaped areas in the interests of amenity, ecology and landscape and to accord with Policies DS1, DS2, DS3, DS4 and DS5 of the Core Strategy.

14. ~~The development shall not begin~~The site shall not be brought into use until full details of boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall thereafter be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: In the interests of security, amenity and landscape, in accordance with Core Strategy Policies EN4, DS1, DS2, DS3, DS4 and DS5.

15. The development shall not begin until full details of the proposed diverted footpath have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include details of the route, width, surfacing, fencing and lighting of the footpath. The approved footpath works shall thereafter be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan.

Reason: In the interests of ensuring that existing rights of way are not detrimentally affected by the development in accordance with Core Strategy Policies DS1, DS2, DS3, DS4 and DS5.

16. The following security measures shall be implemented in full either before any of the buildings hereby approved are brought into use or in accordance with the provisions of an approved phasing plan:

- i. 24 hour security office located at access point of the site;
- ii. 2.4m high palisade fencing installed around the perimeter of the site (other than at security gate at site entrance) and palisade fencing to prevent any access to the grills which cover underneath the elevated buildings;
- iii. CCTV will cover the whole of the site and will be monitored by the security office;
- iv. Individual units will have an intruder alarm installed to BS EN 50131;
- v. Doors and windows to achieve one of the following standards; PAS 24:2012, LPS 1175 issue 7 SR2, STS201/STS 202 issue 3 BR1. Aluminium door sets/ windows can achieve PAS 24:2012 and BS 4873:2009;
- vi. Shutters for delivery areas to achieve one of the following standards; LPS 1175 issue 7 SR1 or STS 202 issue 3 SR1 or above;
- vii. low energy photo-electric cell / dusk till dawn lights which cover the entrances and parking areas to increase natural surveillance.

Reason: In the interests of security, in accordance with Core Strategy Policy DS4.

17. A Low Emission Strategy for the operations at the site and its associated road transport shall be submitted for approval in writing by the Local Planning Authority 12 months from

**Comment [MOU10]:** This is normally provided as an informative? I struggle to understand how this could be enforced and would question how it meets the conditions tests. We of course will be installing security measures otherwise the end users would be at risk.

implementation of the planning decision notice. The Low Emission Strategy shall include amongst other matters;

- i. Details of infrastructure to be provided at the site to encourage and promote the uptake of low emission vehicles on the site. This shall include as a minimum detailed arrangements for the provision of:
  - a. workplace and visitor EV charging facilities (including long term maintenance plans for such infrastructure)
  - b. preferential parking arrangements for low emission and multi-occupancy vehicles visiting the site
  - c. provision of cycle infrastructure across the site including secure cycle storage and storage / changing facilities for employees at the site
  - d. measures to prevent and discourage vehicle idling at the site (e.g anti-idling signage, plug in points for refrigerated vehicles during loading etc)
  - e. pedestrian access routes linking the site to public transport provision
  - f. staff incentives to use public transport to access the site
- ii. Measures to reduce and off set the wider emission impacts of HGV and LGV fleets operating out of the site. As a minimum this shall include:
  - a. Arrangements for provision of a bespoke fleet management and recognition service for the site for a minimum period of 5 years. Access to this service shall be available free of charge to all tenants of the site operating fleets of more than 5 HGVs or LGVs from the site (including bus and minibus services). Signing up to the fleet management and recognition service shall be made a mandatory requirement of tenancy agreements issued for the units.
  - iii. A full review of opportunities to invest in the reduction of emissions from public service vehicles operating within the locality of the site as a means of offsetting emissions from the additional HGV and LGV movements arising from this development. As a minimum this shall include a review of emission standards on local bus services and community transport vehicles and the cost of upgrading these to a minimum of Euro 6 standard via retrofitting of existing vehicles or replacement with new vehicles. A five year schedule of investment in public transport improvements to off set HGV and LGV emissions from the site shall be agreed with City of Bradford MDC within six months of submission of the low emission strategy.

The Low Emission Strategy shall have targets and associated timescales for emission reduction with expected emission savings quantified in line with the most recent DEFRA IGB damage costs. At the end of each calendar year (for a five year period following the first LES submission) an implementation plan shall be submitted for approval in writing by the Local Planning Authority, which on approval shall be fully implemented in accordance with the details and measures so approved. This shall include a schedule of investment in off site low emission public transport measures to off set the emission impact of the development.

The Low Emission Strategy shall take into account future changing emission standards and after the initial 5 year period will require updating at a rate to be agreed with the Local Planning Authority. In setting the timescale for future updates the Local Planning Authority will have due regard to air quality conditions within the district at that time and the need for further emission reduction.

Reason: To minimise the emission impact of the development in line with the requirements of the Bradford and West Yorkshire Low Emission Strategies and the air quality and climate change requirements of the NPPF and to accord with Core Strategy Policy EN8.

18. Before any part of the development is brought into use full details of the provision of electric vehicle charging points to serve the new parking spaces shown on the approved plans shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the electric vehicle charging provisions shall be fully implemented either before any part of the development is brought into use or in accordance with an alternative timetable which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the development is constructed in an appropriate sustainable manner which takes into consideration air quality with in the District, and takes into consideration paragraph 35 of the National Planning Policy Framework and policy EN8 of the Core Strategy.

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

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy EN8 of the Core Strategy.

20. A methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils shall be submitted to, and approved in writing by the Local Planning Authority prior to materials being brought to site.

Reason: To ensure that all materials brought to the site are acceptable, to ensure that contamination/pollution is not brought into the development site and to comply with policy EN8 of the Core Strategy.

21. No industrial process shall take place, and no materials, goods or containers shall be stored, outside of the buildings shown on the approved drawings, other than in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that no external storage and processing takes place, in the interests of amenity, landscape and maintaining adequate parking and vehicle manoeuvring space, in accordance with policies EN8 and TR2 of the Core Strategy.

22. The employment units hereby approved shall not be brought into use until evidence has been submitted to and approved in writing by the Local Planning Authority that the development will meet the BREEAM Very Good standard. Thereafter the development shall only proceed in accordance with the approved details and any approved measures required to meet the BREEAM Very Good standard shall be implemented in full and maintained whilst ever the development subsists.

**Comment [MOU11]:** We have had this reviewed by our air quality consultants and transport consultants. In short, we cannot accept this as it could make the site financially unviable for us and financially unattractive to the end users. We are happy with some mitigation measures but these are considerably extensive and members even mentioned this at the committee meeting. The footnote to this condition suggest this equates to over £600,000 of mitigation equivalent. We simply cannot justify this financially and it would stall the development.

**Comment [MOU12]:** This is very restrictive to businesses during deliveries etc using the outside area as a landing area

Reason: To facilitate sustainable economic growth within the District, in accordance with the provisions adopted Core Strategy policy EC4.

**Comment [MOU13]:** This is covered by building regs and can't be conditioned. I have never seen a condition like this.

23. All works on site shall be undertaken in accordance with the submitted Construction Environmental Management Plan, ref. AQ104892-2R1 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect amenity and health of surrounding residents in line with the Council's Low Emission Strategy and the National Planning Policy Framework (NPPF) and Core Strategy Policy EN8.

24. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any subsequent legislation, no development works whatsoever shall be begun until a plan specifying arrangements for the management of the construction site has been submitted to and approved in writing by the Local Planning Authority. The construction plan shall include the following details:

- i) full details of the contractor's means of access to the site including measures to deal with surface water drainage;
- ii) hours of construction work, including any works of demolition;
- iii) hours of delivery of materials;
- iv) location of site management offices and/or sales office;
- v) location of materials storage compounds, loading/unloading areas and areas for construction vehicles to turn within the site;
- vi) car parking areas for construction workers, sales staff and customers;
- vii) a wheel cleaning facility or other comparable measures to prevent site vehicles bringing mud, debris or dirt onto a highway adjoining the development site;
- viii) the extent of and surface treatment of all temporary road accesses leading to compound/storage areas and the construction depths of these accesses, their levels and gradients;
- ix) temporary warning and direction signing on the approaches to the site;
- x) a temporary drainage strategy outlining the drainage arrangements for different construction phases of the project the means by which sediment laden or contaminated runoff will be prevented from leaving the site.

**Comment [MOU14]:** This was added by your flood team

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

Reason: To ensure the provision of proper site construction facilities on the interests of highway safety and amenity of the surrounding environment and its occupants and to accord with Policies TR1 and EN8 of the Core Strategy.

**Comment [MOU15]:** This is covered by condition 5. A single construction method statement condition is all that is required.

25. The development shall not begin until tree protection fencing and other tree protection measures have been installed around trees to be retained on or adjoining the site These

measures shall be in strict accordance with an Arboricultural Method Statement or Tree Protection Plan prepared in accordance with recommendations in BS5837:2012, details of which shall be submitted to and approved in writing by the Local Planning Authority before any demolition, site preparation or ground works are begun, and before any materials or machinery are brought on to the site.

The Local Planning Authority shall be informed when the tree protection fencing and other tree protection measures have been installed at the site and shall have given its written confirmation that the measures are acceptable before development proceeds.  
Report to the Regulatory & Appeals Committee

Reason: To ensure that trees are adequately protected prior to development activity beginning on the site in the interests of amenity and to accord with Policy EN5 of the Core Strategy Development Plan Document.

26. The agreed tree protection measures, shall remain in place, and shall not be moved, removed or altered for the duration of the development without the prior written consent of the Local Planning Authority. There shall be no excavations or alteration of ground levels within the tree protection areas/construction exclusion zones created on the site, and no engineering or landscaping works, service runs, or installations shall take place and no materials shall be stored within them without the prior written consent of the Local Planning Authority.

Reason: To ensure that trees are adequately protected for the duration of development activity on the site, in the interests of amenity and to accord with Policy EN5 of the Core Strategy Development Plan Document.

27. Notwithstanding the flood mitigation proposals contained in the supporting information, the development shall not begin until a 2D Hydraulic flood model of the River Aire, to show how alterations to current ground levels within the site, for each phase of the development, will not increase flood risk upstream or downstream from the development site has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall also include the methodology and results of this modelling together with any recommendations for adjustments to the development scheme required to ensure that the development does not increase flood risks. The development shall thereafter only proceed in strict accordance with the approved mitigation measures and the site shall be re-profiled, phased and constructed in accordance with the approved details.

Reason: In the interests of the protection of the environment and the reduction of flood risks, in accordance with policy EN7 of the Core Strategy.

FOOTNOTES:

Footnote: Please note that the development hereby approved may contain conditions that require details to be submitted to and approved in writing by the Council either prior to the commencement of the development or at another specified period. To comply with the

**Comment [MOU16]:** There are no trees on the site, merely overgrown vegetation in parts which needs clearing to facilitate the development. Could you therefore delete this condition please.

**Comment [MOU17]:** This is a new condition added by your flood team. We are not happy to accept this. The flood information provided has already been approved by the council committee members. This, like some other conditions, requests further assessment after a decision has been made.

requirements of these conditions the developer is required to submit an "application for the approval of details reserved by a condition". For more information about the application process and fee please go to [www.bradford.gov.uk/planning](http://www.bradford.gov.uk/planning) and click on "Apply for planning". Works must not commence until the necessary approval(s) have been obtained.

Footnote: If any aspect of your proposed works affects existing public footways, public highway or public rights of way you must ensure that relevant Highway Legislation and Statutory Notices are complied with and that all relevant fees are paid prior to commencement of your works. Please contact the Network Resilience and Management Team on 01274 437420 or email [network.management@bradford.gov.uk](mailto:network.management@bradford.gov.uk)

Footnote: If your development involves the construction of a new road, a new footway to an existing road or a new industrial access, please contact the New Estate Roads Office on 01274 437423 before building commences. Please note that Section 38 agreements take 6 - 12 weeks to process.

Footnote: If your development involves the construction of a new junction, or any alteration of an existing road or footway, please contact the Section 278 Coordination office on 01274 437308 before building commences. Please note that Section 278 agreements take 12-18 weeks to process.

Footnote: If your development affects any street lighting columns please contact the Street Lighting Section on 01274 434019 before building commences.

Footnote: Please note that this approval does not convey any form of approval under the Building Regulations. You are therefore advised to contact Building Control to find out whether your proposal requires building regulations approval before starting work. Contact Building Control on 01274 433807. Email - [buildingcontrol@bradford.gov.uk](mailto:buildingcontrol@bradford.gov.uk)

Footnote: For non-householder applications your attention is drawn to Section 76 of the Town and Country Planning Act 1990 which relates to the applicant's responsibilities under Section 4 and 7 of the Chronically Sick and Disabled Persons Act 1970 and the British Standards Institution Code of Practice BS5810 1979 concerning Access Requirements for Disabled People. Advice may be obtained from your local Planning Office.

Footnote: There are specific Regulations and adopted standards above and beyond Planning and Building Regulation requirements that apply to 'Houses in Multiple Occupation'. If your application relates to the construction, extension, conversion or alteration of a building containing flats or bedsits and/or the reconfiguration of an existing layout which creates new inner rooms then you are advised to consult the Housing Standards Team on 01274 434520 or email [CHESAdminSupport@bradford.gov.uk](mailto:CHESAdminSupport@bradford.gov.uk) for further advice.

Footnote: Records held by the Local Planning Authority indicate that the site which you intend to develop is located between 150 and 250 metres from one or more historic landfill sites. Although 150m from a historic landfill it would be prudent to raise this issue with your builder/ architect. You should ensure that you have a sufficient understanding of ground conditions beneath the site to select appropriate foundation options, deal appropriately

with any excavation arising from the development and understand whether it would be appropriate to install ground gas protection measures. For further information on the nature and proximity of the relevant Landfill Sites you may request a Landfill Search from the Local Planning Authority for a nominal fee, please contact [minerals.planning@bradford.gov.uk](mailto:minerals.planning@bradford.gov.uk) for further details.

Footnote: The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

Footnote: In relation to the Low Emission Strategy there are a number of fleet management and recognition services in operation across the UK which provide advice to fleet operators on how to minimise and improve emissions from their fleets via measures such as eco-driver training, route optimisation, vehicle telematics and new vehicle purchase / vehicle retrofitting. Further information on these services can be obtained from air quality staff at Bradford MDC. The West Yorkshire Eco-stars scheme is currently available to fleet operators in the West Yorkshire area free of charge for a limited period.

The emission damage costs associated with the site in the first 5 years have been calculated as £602,760.70. The aim of the emission strategy should be to offset this damage cost as far as reasonably practicable.

Footnote: The following requirements must be observed in connection with the public rights of way on the site:

The affected public right of way must not be obstructed by any plant, materials or equipment. Even the temporary storage of materials on the right of way is not permitted. Any obstruction of the route constitutes an offence under the Highways Act 1980 and will be pursued accordingly.

If essential works mean that the public right of way cannot be kept open because of safety hazards, a temporary diversion or closure order must be obtained. Please contact [Network.management@bradford.gov.uk](mailto:Network.management@bradford.gov.uk) for details.

Even though planning permission is granted, no new stiles, gates, barriers or other structures can be erected on or across a public right of way without prior approval from the Council's Rights of Way Section. The requirements of the Equality Act 2010 must also be considered.

If works alongside the public right of way present a danger to path users the affected section should be fenced off with safety netting.

The surface of the public right of way should not be disturbed, however, if development works cause damage to the right of way it must be promptly repaired by the applicant at

**Comment [MOU18]:** This isn't a condition but does this mean anything to you?! I will send to my air quality guys for comment

their expense. If any changes are proposed that would affect the surface in any way, these must be approved, in advance by the Rights of Way Section.

If building works remove features that would enable users to find the right of way, the line of the right of way must be clearly indicated by some other means, as this will help to minimise conflict and difficulties on site.

Footnote: The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can start. Conditions numbered ?????????? of this permission require matters to be approved before development works begin; however, in this instance the conditions are justified because:

i. In the interests of dealing with the planning application expeditious it was considered sensible to reserve the approval of a number of matters of detail relating to the site development scheme to a subsequent stage prior to the commencement of development;

ii. The details required under condition numbers ?????????????? are fundamental to the acceptability of the development.

Positive & Proactive Statement in accordance with Article 35(2) of the Town and Country (Development Management Procedure) (England) Order 2015

In dealing with this planning application the Local Planning Authority adopted a positive and proactive manner. The Council offers a pre-application service for minor and major applications and applicants are encouraged to undertake this. Proposals are assessed against the National Planning Policy Framework, Local Plan for Bradford policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption and are referred to in the reason for approval or reason(s) for refusal. The Local Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant/agent as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

**Comment [MOU19]:** This is not sufficient justification for a pre-commencement condition. The application has been approved and is not in outline form so they cannot retrospectively ask for information just because it was approved

**Comment [MOU20]:** Not sure I agree with any of this

Footnote: Plans associated with this application can be viewed at [www.bradford.gov.uk/planning](http://www.bradford.gov.uk/planning) and click on “view planning applications”.

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YOUR RIGHTS IN CONNECTION WITH THIS NOTICE

21 June 2018

**Ward:** Keighley Central

**Recommendation:**

To Refuse Planning Permission

**Application Number:**

17/05255/MAF

**Type of Application/Proposal and Address:**

Full planning application for the formation of 8 structures housing 9 commercial units (B8 & B2 usage) with associated car parking, highways connection, drainage and landscaping on land north of Royd Ings Avenue, between the A629 and the River Aire.

**Applicant:**

Mr Horrell: PH Holdings

**Agent:**

Mr Michael Ainsworth: MADP

**Site Description:**

The 10.7 hectare area of land to which this planning application relates is a relatively flat greenfield area set at a 2 – 3 metre lower level than the adjacent industrial park forming part of the functional floodplain of the River Aire. The land includes boggy grassland, hedgerows/ copses, watercourses/ drainage channels and an oxbow wetland. The land is also transected by a public footpath. Adjacent land uses include the existing extent of the approximately 40 hectare Keighley Industrial Park to the south and south-east. The River Aire and agricultural land is situated on the floodplain to the east. A further stretch of floodplain is situated to the north. The A629 is situated to the west, raised up above the level of the site with a raised embankment separating the site from the road.

**Relevant Site History:**

- No Development Control History.
- The Site was previously allocated for employment use under the pre-2015 Unitary Development Plan but was removed from the RUDP Proposals Map primarily for reasons associated with flooding.

***Development Plan Proposals Map Allocation:***

- The proposal site is within the Green Belt as defined by the Proposals Map.
- The proposal site is within Washlands as defined by the Proposals Map.
- The proposal site includes the Beechcliffe Ox-bow lake Local Wildlife Site.

### **Proposals and Policies**

As the site is within the Green Belt saved policy GB1 of the replacement Unitary Development Plan (RUDP) is relevant. The majority of non-allocation related policies within the RUDP have now been superseded by those set out in the Core Strategy. The following adopted Core Strategy policies are considered to be particularly relevant to the proposed development:

- SC8 - Protecting the South Pennine Moors and their Zone of Influence
- AD1 - Airedale
- EN2 - Biodiversity and Geodiveristy
- EN4 - Landscape
- EN7 - Flood Risk
- EN8 - Environmental Protection Policy
- DS1 - Achieving Good Design
- DS2 - Working with the Landscape
- DS3 - Urban character
- DS4 - Streets and Movement
- DS5 - Safe and Inclusive Places
- TR1 - Travel Reduction and Modal Shift
- TR2 - Parking Policy
- TR5 - Improving Connectivity and Accessibility
- EC4 - Sustainable Economic Growth

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

The NPPF sets out the government's national planning polices, which are a material consideration for all planning applications submitted in England. Detailed assessment of specific policies within the NPPF relevant to the proposed development is included in the report below.

### **Parish Council:**

*Keighley Town Council – No Comments Received*

### **Publicity and Number of Representations:**

The application was advertised as a major planning application through the posting of site notices and neighbour notification letters and the publication of a notice in the Telegraph and Argus newspaper. The date specified on these initial notices, by which representations should be submitted, was 09 November 2017. A second round of publicity was initiated on 06 February 2018, with an end date of 21 February 2018. In response to this publicity 21 written representations have been received 13 of which object to the application and 8 of which support the application. The local MP has written a letter in support of the application.

In terms of the community consultation undertaken by the applicant, this comprised a pre-application consultation event at Temple Chambers, Russell Street, Keighley, on 22<sup>nd</sup> February 2017, which was publicised in the Keighley News beforehand. The applicant states that 15 people attended this event and that various queries were raised including

queries relating to jobs, wildlife, flooding, design, footpaths and traffic. The applicant has further indicated that the scheme was modified following this consultation to provide for additional loading bays to be directly accessed from the raised spine road to allow products to continue to be loaded/ unloaded during flood events.

### **Summary of Representations Received:**

#### **Support**

- I am in support of the development.
- I work in units next to the site and have done for the last 10 years. I have seen the site being developed over the years, recently the magnet factory which has been successfully occupied. I couldn't emphasise enough the need for industrial space in Keighley and the need for job prosperity. With this scheme I feel both objectives can be achieved.
- I am in support of this scheme and any other schemes that increase employment.
- Over the next few years Bradford council has earmarked house building on a massive scale around 5000 I believe. So where are we going to make employment available for these households.
- For Keighley to be able to grow and prosper we must make available new areas where business can thrive. There are many businesses that would like new premises so they can employ local people.
- No one has the universal right to a view. Admittedly no one wants an industrial building on their doorstep however this is far enough away from houses. For the prosperity I implore the council to give this proposal a fair view and let Keighley prosper.
- If the council let's this planning application happen there should be conditions attached which ensures we are not left with the same hole we had in Bradford for so many years.
- Keighley desperately needs more industrial space.
- The location of the proposed development is one which should have been looked at before now, the idea of mitigating the flood risk by developing the units on stilts is applaud-able.
- I hope Bradford council look positively at this proposal as this would be a welcomed addition to Keighley. I can't understand those that prefer the landscape in comparison to our dying town. Surely if we want the next generations to prosper in Keighley in terms of employment and business it is our responsibility to ensure we do everything we can.....
- I read the article in the local papers and was so pleased to hear that something is being done in Keighley, especially if we don't want this town to become a ghost town.
- Clever idea building on stilts, the engineering has been well thought out.
- An idea that sounds fantastic on paper and one that Keighley could do with working out to help bring well needed employment into the town.
- Being a local business man, over the years industrial space in Keighley has become short in supply. The cost to buy or lease a decent industrial unit is immensely over priced in Keighley. The issue has been a lack of space for business to grow into. This can only be due to the lack of space available or developed over the last 50 years. We seem to have huge targets for housing to be achieved however the industrial units have been forgotten for too long.

- This scheme is a breath of fresh air and something Keighley has been crying out for many decades.
- I couldn't support this development enough.
- Great idea and a perfect location, let's hope the units have a knock on effect on the prices and allow business to expand.
- As long as the flooding issue can be resolved I strongly support this application.
- I run a large fleet of heavy goods vehicles more industrial units will mean more goods moving in and out of Keighley.
- I know from talking to businesses there is a shortage of units like this.
- I hope our politicians come out and support this!

### ***MP Support Letter***

I have studied carefully the extra information which has been provided by the applicant at the request of the Committee following its meeting in December. I think there are a number of reasons why exceptionally this proposal should be granted even though some of it is on green belt land.

Firstly, the Committee report state that the site was allocated for employment use under the pre-2015 Unitary Development Plan and was only removed from this category because of the risk of flooding. The proposal is to build on stilts which would allow flood water and wildlife to pass underneath. This is now a proven construction method.

Secondly, the Airedale Drainage Commissioners have raised no objections noting that the developer intends to install below ground tanks which will limit the flow of surface water into the river so that it is not exceeding green field runoff rates. In other words, areas like Stockbridge will not in their opinion be at any greater risk of flooding.

Thirdly, there is a significant shortage of employment land in Keighley. This development would provide much-needed jobs and investment giving real opportunities to Keighley residents.

If this application is refused it is likely that over the next decade any expansion in employment land and the associated jobs will be concentrated in Bradford itself with perhaps some in Silsden. This application is likely to be the only realistic opportunity to significantly increase the amount of employment land within the boundaries of Keighley Town. I think other issues regarding highways, footpaths and wildlife can be dealt with by the imposition of stringent planning conditions with the developer contributing towards any rerouting of footpaths and improvement of flood defences.

### ***Objection***

- Other more suitable brownfield sites exist... The council should proactively find brownfield-sites that are close to all transport networks and make it affordable and appetizing to developers.
- Bradford Council should follow its own Core Strategy and refuse the application.
- I can only object to this being carried out on the grounds that this is a flood plain which a few years ago was under 3 feet of water and floods every year although not

always as bad. It also contains a lot of wildlife such as frogs, toads, newts and deer to name but a few. Keighley Angling Club own the fishing rights down there so what will happen to them? It is also a public right of way so what will also happen to that?

- This development lies in an area which must be protected for the wildlife that exists there and also utilizes the area. The very fact that it is also on the floodplain as identified in the environment agency report must mean that permission is refused. There are plenty of brown field sites in Keighley which could be used for this development.
- The area immediately affected by the proposed developments is a sensitive ecological area of which more than half lies within the green belt area. The ecological survey confirms this is an important site for mammals and birds. Indeed it lies on the Aire Valley migration corridor. Within the near area there are several bat species, frogs, toads and newts. In my garden there is a breeding colony of slow worms. These creatures are increasingly threatened by the gradual reduction of their habitat. I can easily see the proposed site from my house. There is a canal and a river between my house and the site. Slow worms are well documented as strong swimmers.
- The Leeds Liverpool canal conservation area is in place to protect the environment and views from the canal. This proposed development does not comply with this, indeed it actively contradicts this. Unless of course it only applies to domestic properties who must comply with a conservation area. My garden borders the canal and over the last few years I have seen an increase in the number of people who use the canal and towpath for leisure. Canal boat holidays appears to be on the increase. Most noticeable is the increase in bicycle traffic. The Tour de Yorkshire promoted cycling very successfully - not only to "serious" cyclists but to families who use the towpath as a safe, attractive, clean way to spend healthy, environmentally friendly family time together. It appears counter productive to promote the beautiful countryside of the area and then build industrial units on it.
- The proposed development represents a significant increase of the existing site. What is now a relatively small industrial estate would become a very different proposition if the site is further developed. There are several sites within a relatively small area which could each accommodate one or two units without having such a negative environmental and visual impact.
- The proposed site allows for 361 parking spaces. This is a significant increase in traffic, all of which would have to queue to join larger roads. The negative impact on the environment of standing traffic is well known. Given that there are plans to build an incinerator on the bypass, the "double whammy" of these two proposed developments pose a significant threat to the health and wellbeing of the population and the environment.
- The proposed development is on a site which floods. This is well known. Building the units on artificially raised land may prevent the new buildings from flooding but will only contribute towards increased water going into the river. Any land which has a hard surface on it will not absorb rainwater. The water will run off and enter the river thus placing houses and businesses downstream at increased risk of flooding. In addition, any flood water from upstream will have less land to overflow, thus resulting in more water flooding a smaller area downstream, for example, nearby Stockbridge, which has already experienced serious floods in recent times. The financial costs of this could be serious, but the emotional costs would be devastating to those affected.

- There is not a single brownfield site left available in Keighley. The site off Dalton lane has been sold to developers. The site off east parade behind the Sainsbury's petrol station has been also sold to developers. I'm not aware of any more sites in Keighley.
- It will result in the loss of precious natural river bank habitat. Despite the findings of the Industrial report included with the application, the fact remains that either within or near to Keighley there are several large derelict brownfield sites that could be brought back into commercial use if the will was there - the sites off Dalton Lane and at Beechcliffe are mentioned in the report and there is also land off Gresley Road, as well as Castlefields at Crossflatts. In any case as the units are to be let separately, there is no need for all to be sited together, totalling 44,000 sq m; they could be sited elsewhere within the town in smaller concentrations .
- The proposal represents an over intensive development of the land; there are an excessive number of buildings for the site area and this will result in the impression being given of one huge roof when viewed from West Riddlesden, where we live. Worse, this over intensive development will be emphasised by the buildings being raised above the flood plain; the drawings suggest a ground level to eaves height of 13 metres (or 42 feet in Imperial measure). Compared with a normal industrial unit height of 10.5 metres, this means these warehouses will be 2.5 m (over 8ft) higher - and this adjacent to open country and the river. Houses in West Riddlesden are built on the hillside and therefore look down onto the river and the fields of the flood plain. The proposed development would therefore be excessively dominant and detrimental to our outlook and view.
- The landscape plan shows trees to be planted adjacent to the river, yet this ceases towards the eastern edge of the development for some reason, leaving the end of one unit totally exposed, this being the one unit that would be most prominent for us.
- The submission claims that "only" 54% of the development is within the greenbelt. The fact that more than half is admitted to be in the greenbelt should be enough for the application to be refused, but a quick study of one of the Key Consideration plans, without the benefit of CAD, suggests that the figure must be considerably greater than 54%, unless the measurement only takes in the buildings footprint rather than the full site area, in which case the figure is at best disingenuous and at worst simply false.
- Another Key Consideration plan shows that the area is entirely outside the Urban Renaissance Employment Zone, so it cannot claim that as a justification for permission being granted. It does, however, result in the loss of an oxbow lake, with the consequent loss of all the natural habitat that this provides. In this context, I am puzzled as to why the site map at Appendix 4 of the Habitat Survey is headed "Phase 1" and specifically excludes the oxbow lake from the survey, whereas the site map in the Planning Application includes it, the cut and fill plan shows that it will be filled in, and the key considerations plan confirms that most of it will thereby be lost. This must inevitably be the most bio-diverse part of the site and surely it is essential that a full Habitat Survey of it should be carried out to establish the degree of harm to wildlife habitat that would be caused by its loss. The present survey report refers to it only as being "adjacent" to the proposed works, which is incorrect.

- The plan includes provision for 361 parking spaces. The Transport Assessment suggests that the majority of evening peak time traffic will mostly leave the site via Royd Ings Avenue, Alston Road and into Bradford Road roundabout, with 76 peak hour movements (plus 16 into Beechcliffe roundabout - total 92). This does not reconcile either with the number of parking spaces of 361, or with the 150 jobs said to be created and I suggest is therefore rather on the low side. Whilst there may be a small number of cyclists, the likelihood of anyone walking the full length of Royd Ings Avenue in order to catch a bus on Bradford Road is surely negligible, in which case car usage to and from the site will be almost universal.
- The assessment also doesn't consider movements throughout the day - which will presumably mostly be of LGVs serving the warehouse units - nor does it consider the difficulties of entering Bradford Road roundabout from Alston Road with an LGV, given that this particular entry point is not signalled, unlike the rest of the roundabout - a point not brought out in the TA. Realistically, however, departing vehicle movements - both car and LGV - are at least as likely to take the shortest route to the A629, using Royd Way where, after overcoming the difficulty of joining the major road they will add to the existing congestion by travelling down Hard Ings Road towards Bradford Road roundabout. The matter of Beechcliffe roundabout being signalised as part of the Hard Ings Road highways improvements is almost irrelevant to this application since there is no direct access to it for outgoing traffic from the site. It is regrettable that the full Highways Consultation assessment will not be available for public scrutiny prior to the closing date for public comment.
- There is plenty of underused brownfield space around this areas, it is far preferable to develop these areas and protect the greenfield space which can never be replaced once lost, and appears to be disappearing fast in this area and increasing amounts of development and housing are approved.
- We moved to Riddlesden (from Shipley) two years ago, and were delighted to find a long stretch of riverside flower meadows, with kingfishers and other hard-to-find birds, just a walk away. A flood plain wildlife habitat that should be preserved as it is. And now they want to build on it. Castlefields Industrial Estate appears underused - please correct me if wrong - and would be even better.
- The environmental report states that this area is a site where a variety of wildlife species feed and hunt - some of which are on the UK's protected species list. The site is directly next to a pond housing several rare plants and opposite an area set aside for breeding wild birds. The development will negatively influence, perhaps even destroy these areas.
- As the spread of development increases in size from urban areas I feel we should be very, very careful when destroying though developing in such natural 'hinterlands'. Does this need to be situated here? Why on an undeveloped green site? The adjacent industrial estate has several empty units currently being advertised. As an allotment owner in a nearby site for over 6 years, I have seen vacancies in the existing industrial estate that could support the additional business proposed in this planning application.
- Our town can be seen to be on a borderline between the less developed land further up the Airevalley and the more developed areas towards Leeds and Bradford. Our area has a responsibility to not negatively interfere with the flood plain

and influence drainage to waterways. The localised floods in Stockbridge and near Beechcliffe in the past years (not to mention those in Leeds) have shown that this relationship is very sensitive balance.

- As a house owner in Beechcliffe where one waterway already runs, I feel scared that the route of the water runs through this site due for development. The environmental report states that the proposed site is under a high risk of flooding, and should it be developed it would negatively influence the water table in neighbouring areas.
- I have significant concerns about this development, particularly from an ecological viewpoint. The ecological survey report identifies the proposed site as having importance for mammals and birds. As a near neighbour to the site, I am aware of the presence of several bat species, including Daubenton's and pipistrelles, sparrowhawks, tawny owls, jays, woodpeckers and a wide range of small birds. The land is also used by wintering geese of various species. Toads and frogs are common on the land the other side of the river and there is an active Toad patrol group in Riddlesden. The Aire valley corridor is a well known migration route in Spring and Autumn and I am aware that an osprey was seen flying over the valley in recent years. Any development that reduces the amount of open green space and foraging/ hunting/ resting spaces would, in my view be significantly detrimental to the ecology of the area.
- The Leeds Liverpool canal conservation area is designed to protect the environment and views from the canal, and this development would have a significant impact on this.
- No consideration seems to have been given to the impact of the outlook from the houses that overlook the site i.e those in Riddlesden on High Cote, Scott Lane West, Scott Lane, Dunkirk Rise, Western Avenue and nearby roads.
- I am on the committee of a local Angling Club, (Keighley Angling Club) who own the stretch of the river Aire to the rear of this proposed development. The stretch was purchased in 1982 on behalf of its members from George Hattersley and Sons. The conveyance concludes it is a sole and several fishery, with fishing rights and profit a prendre in the said river Aire and in the land over which the river runs.
- It is a real shame that we have not been consulted on this as we manage this bank of the river from Utley to Stockbridge and only found out when we were contacted by one of our extremely concerned members?
- Also I'd like to draw your attention to the ecology report attached to the application item:4.2.3 which states "Efforts should be made to retain and protect this habitat, particularly as any negative effects on this area could have adverse effects on the River Aire."
- Any storage of water which is discharged once the levels reduce could affect our rights to fish unhindered

***Further Objections Submitted within 2<sup>nd</sup> Consultation Period***

- The proposal represents an over intensive development of the land; there are an excessive number of buildings for the site area and this will result in the impression being given of one huge roof.
- Worse, this over intensive development will be emphasised by the buildings being raised above the flood plain; the drawings suggest a ground level to eaves height of over 13 metres (or 42 feet in Imperial measure). Compared with a normal industrial

unit height of 10.5 metres, this means these warehouses will be 2.5 m (over 8ft) higher - and this adjacent to open country and the river. T

- The Supporting Information Existing and Proposed View submissions only cover the North and the South East. There should have been a similar submission showing the effect to the South West.
- The proposed development would result in the loss of precious natural river bank habitat.
- The submission inaccurately claims that "only" 53% of the development is within the greenbelt.
- The present survey report refers to the oxbow wetland only as being "adjacent" to the proposed works, which is incorrect. In addition, the Habitat Survey was carried out in October 2016 and therefore cannot have adequately established the true extent of wildlife, flora and fauna on the site. A full survey at a more appropriate time, during the summer and this time including the oxbow lake, would yield widely differing results.
- The Transport Assessment understates traffic impact and does not include consideration of the implications of increased usage of each of the available routes to the A629.
- On behalf of Keighley Ramblers I would like to object to this application as we are sure any industrial development here will greatly increase the risk of flooding in the area.
- It will also damage the natural environment as well as encroach on green belt land.
- And though the plans suggest a public footpath around the perimeter of the site to replace the current path going through the proposed site, all the local footpaths would inevitably over time suffer and deteriorate from the development and flooding to such an extent that walkers would stop taking what is now a pleasant walk across green fields.
- There are still brown field sites available within the Keighley area which should be used for industrial development first.

### **Consultations:**

#### ***Airedale Drainage Commissioners (ADC)***

- Further to our letter dated 13 October 2017 in connection with the original submission of the above planning application, I note contents of drawing 207a and in particular the attenuation plan contained within it. I note that the developer intends to install below ground tanks and as detailed on the drawing, will limit the flow of surface water into the river to that not exceeding green field run off rates.
- Providing that the details of this drawing plus the guidance given in our letter of 13 October 2017 are met then the ADC have no further comments on this matter.

#### ***Biodiversity***

The proposal is immediately adjacent to Bradford Wildlife Area Beechcliffe Oxbow which was re-surveyed in July 2017 and qualifies under the West Yorkshire Local Site criteria as species –rich swamp and will therefore be designated as such.

The Phase 1 Habitat Survey submitted by the applicant also confirms that the site contains habitats of moderate to high ecological value (section 5.1).

It is clear that the proposal, although seemingly excluded from the development site in the Phase 1 Habitat report, actually does include the oxbow site in its entirety. The cut and fill plan submitted shows that not only is the oxbow included within the development site, but is actually to be obliterated as part of the cut and fill operation.

Given the local ecological importance of the site, Bradford Development Plan Core Strategy policy EN2 comes into play, in relation to locally designated sites as follows:

*Locally Designated Sites*

*C. Development likely to have direct or indirect adverse effect on a site of ecological/geological importance (SEGIs and RIGS) or a site of local nature conservation value (Bradford Wildlife Areas) will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the site.*

*Proposals that are likely to have an impact on such sites will be assessed according to the following criteria;*

- 1. Whether works are necessary for management of the site in the interests of conservation.*
- 2. Whether appropriate mitigation measures, which could include adequate buffer strips, have been incorporated into the proposals to protect species and habitats for which the Locally Designated Site has been designated.*
- 3. The development would be expected to result in no overall loss of habitat, through avoidance, adequate mitigation or, as a last resort, the provision of compensatory habitats adjacent to or within the vicinity of any losses proposed. Existing habitats and proposed mitigation or compensatory measures should be quantified.*

Given that the oxbow feature is unique it is difficult to envisage how such a proposal could be supported, and impossible to envisage how the impact on it could be mitigated or compensated for.

In addition to the above concerns, the Habitat Report submitted, although confirming that the site supports both lapwing and curlew, does not make any reference to the Core Strategy policy SC8, which seeks to protect the South Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) from adverse impacts. This policy identifies a zone (Zone B) extending 2.5km from the boundary of the SPA/SAC, within which impacts on supporting habitat should be avoided. Given that the development site lies just under 2km from the SPA/SAC and supports lapwing and curlew – both of which are qualifying bird species for the SPA – there is a possibility that the site could be used for foraging and feeding by these species and therefore be regarded as supporting habitat. In order to confirm this, foraging bird surveys would be required (as also recommended by the Phase 1 Habitat report) and if confirmed as supporting habitat, the proposal would lead to an adverse effect which could not be effectively mitigated. The wording of policy SC8 is included here:

*Subject to the derogation tests of Article 6(4) of the Habitats Directive, in all Zones development will not be permitted where it would be likely to lead, directly or indirectly, to an adverse effect (either alone or in combination with other plans or projects), which cannot be effectively mitigated, upon the integrity of the SPA or the SAC*

and;

*In Zone B it will be considered, based on such evidence as may be reasonably required, whether land proposed for development affects foraging habitat for qualifying species of the SPA.*

The recommendation included in the Phase 1 Habitat report summarises the issue adequately;

“Efforts should be made to protect this site from any development that occurs here.”  
(Section 5.4)

In conclusion, given the significant impact that this proposal appears to have on a designated Local Site and, potentially on supporting habitat of the South Pennine Moors SPA; and the absence of any detail as to how these impacts will be avoided or mitigated, it is not possible to support this application in its current form and, from an ecological and biodiversity viewpoint have no option but to object to the proposal.

### ***Canal and River Trust***

This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee.

### ***Drainage/ Lead Local Flood Authority 1<sup>st</sup> Response***

The Lead Local Flood Authority (LLFA) is a statutory consultee on matters relating to surface water management on all major developments only. The LLFA also has a role to monitor and manage flood risk from other sources of flooding. As such, the LLFA has reviewed the submitted documentation of the planning application, against the requirements of the National Planning Policy Framework, Planning Practice Guidance, Local Planning Policy and other relevant regulations with regards to flood risk from all sources. Further to this assessment the LLFA OBJECT to the proposals because the application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary to Tables 1 and 3 of the Practice Guide to the National Planning Policy Framework. The proposals are classified as ‘Less Vulnerable’ and as such are not permitted within Flood Zone 3b. Furthermore, the proposals conflict with policy EN7: Flood Risk of the Council’s Core Strategy Publication Draft in that it fails to safeguard potential to increase flood storage provision and improve defences within the River Aire corridor. The LLFA therefore recommends the application is refused based on these fundamental National and Local planning policy contraventions.

### ***Drainage/ Lead Local Flood Authority 2<sup>nd</sup> Response***

The Lead Local Flood Authority (LLFA) is a statutory consultee on matters relating to surface water management on all major developments only. The LLFA also has a role to monitor and manage flood risk from other sources of flooding. As such, the LLFA has reviewed the submitted documentation of the planning application, against the requirements of the National Planning Policy Framework, Planning Practice Guidance, Local Planning Policy and other relevant regulations with regards to surface water disposal and flood risk from all sources. Further to this assessment the LLFA **OBJECT** to the proposals for the following reasons;

#### *National Planning Policy Framework*

The application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary to Tables 1 and 3 of the Practice Guide to the National Planning Policy Framework. The proposals are classified as 'Less Vulnerable' and as such are not permitted within Flood Zone 3b.

***The LLFA therefore recommends the application be refused based on this fundamental National planning policy contravention.***

#### *Bradford Council's Core Strategy*

The application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary with policy EN7: Flood Risk of the Council's Core Strategy Publication Draft in that it fails to safeguard the potential to increase flood storage provision and improve defences within the Rivers Aire corridor. The River Aire and the settlements alongside it suffered significant flooding during December 2015 and therefore existing floodplains are being investigated to determine if they could offer greater flood risk benefits within the River Aire corridor.

***The LLFA therefore recommends the application be refused based on this fundamental Local planning policy contravention.***

#### *Hydrology*

The application does not include a hydrological assessment of the proposed alterations within the floodplain, and whether these alterations will have an effect on flood risk within the River Aire catchment. The application is proposing to alter land levels within the floodplain, including the construction of a raised access road. Floodplains do not fill and empty in a simple controlled manner and as such, any alterations should be accompanied with a hydraulic model of the River Aire. Furthermore, the raised access road will displace a large amount of flood water and the details submitted have not shown how this displacement of water will be compensated within the site boundaries of the application.

The current flood levels used by the applicant in its assessment of flood risk do not include the latest allowances for climate change. The climate change allowances are only assessed up to the year 2050. The design life of the building is stated to be 65 years and as a result, climate change allowances should be considered up to 2083. The National Planning Practice Guidance refers planners, developers and advisors to the Environment Agency guidance on considering climate change in Flood Risk Assessments (FRAs). This guidance was updated in February 2016 and is available on Gov.uk. In accordance with this update to climate change advice, the development should be assessed with a 20-30% allowance for climate change attributed to peak river flows based on a less vulnerable development, with a design life of 65 years located within and adjacent to flood zone 3a and 3b.

***The LLFA therefore recommends the application be refused because the second part of the Exception Test has not been passed as 'development has not been shown to be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.***

### *Surface Water Disposal*

The application proposes to discharge surface water into the Rive Aire at a restricted greenfield runoff rate. The applicant proposes to install surface water attenuation tanks to manage the surplus water generated from this restricted flow. Indicative calculations have been carried out to assess the likely size of the attenuation tanks and this assessment shows that storage will be required to the magnitude of 2015 -3353m<sup>3</sup>. As a discharge in to the River Aire is proposed this volume of storage will have to be located within the floodplain and as a result, compensatory storage should be provided to manage the displaced volume of flood water. The applicant has not shown how this compensatory storage will be provided.

***The LLFA therefore recommends the application be refused because the second part of the Exception Test has not been passed as ‘development has not been shown to be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall’.***

### ***Environmental Health (Air Quality)***

- 1) The latest version of the air quality assessment indicates no new exceedances of the legal objectives for air pollution however the development does cause some increases in concentrations in areas which were already exceeding the legal limits for air pollution. The largest magnitude of change being an increase of 0.9ug/m<sup>3</sup> at the Rhlystone Road residential receptor. This is a moderate change and is a highly undesirable consequence of the proposal in air quality terms.
- 2) The air quality damage cost of the development (costs which mainly relate to the health impact) have been calculated by the applicants consultants at **£602,760.70**. The applicant has indicated that they do not wish to undertake some of our suggested mitigation (which was to limit the use of fleet to a euro VI standard, meaning only the cleanest vehicles could access the site). In light of this we suggest that the applicant will now need to provide a comprehensive air quality mitigation strategy in line with the damage costs calculated. We have some suggested ideas for mitigation and will be happy to discuss these with the applicant going forward should the proposal be approved. Conditioning of a comprehensive and quantified air quality mitigation strategy will be essential to avoid detrimental air quality impacts associated with the proposal.

### ***Environmental Health (Land Quality)***

Historic maps of the site show that the original meandering channel of the River Aire ran through the northern area of the site. By the end of the 1800s this meander was ‘cut off’ from the main river channel and still forms an identifiable landscape feature. Otherwise the area appears to have been occupied by agricultural fields. Whilst land contamination may be associated with some agricultural activities, the proposed commercial development with associated hardstanding and landscaping does not introduce a very sensitive land use.

Therefore, should the Local Planning Authority be minded to approve the application, Environmental Health would recommend the following conditions for inclusion on the planning decision notice.

### **Unexpected contamination**

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

Reason: To ensure that the site is remediated appropriately for its intended use and to comply with policy EN8 of the Local Plan for Bradford.

### **Materials importation**

A methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils shall be submitted to, and approved in writing by the Local Planning Authority prior to materials being brought to site.

Reason: To ensure that all materials brought to the site are acceptable, to ensure that contamination/pollution is not brought into the development site and to comply with policy EN8 of the Local Plan for Bradford.

### ***Environment Agency 1<sup>st</sup> Response***

- We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.
- Practice Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3b (functional floodplain) defined by the Practice Guide to the NPPF as having a high probability of flooding.
- The development type in the proposed application is classified as 'Less Vulnerable' in accordance with table 2 of the Practice Guide to the NPPF. Tables 1 and 3 of the Practice Guide to the NPPF make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

### ***Environment Agency 2<sup>nd</sup> Response***

- We have reviewed the information submitted and we maintain our objection to the proposal. Our comments provided in our previous response dated 30 October 2017 remain valid and are included below for clarity.
- We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.

- Practice Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3b (functional floodplain) defined by the Practice Guide to the NPPF as having a high probability of flooding.
- The development type in the proposed application is classified as 'Less Vulnerable' in accordance with table 2 of the Practice Guide to the NPPF. Tables 1 and 3 of the Practice Guide to the NPPF make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

***Environment Agency 3<sup>rd</sup> Response [04 May 2018]***

Full text of response provided at Appendix 1, a selection of excerpts from this response is provided below:

- We consider the proposed development conflicts with ... local planning policies, firstly that ... the Council will not permit development in areas shown as functional floodplain (Flood Zone 3b) in the SFRA. The proposed development would also conflict with the aim to safeguard the potential to increase flood storage provision, and we consider there has been insufficient demonstration within the submitted information that the proposal does not increase flood risk elsewhere.
- Granting planning permission to actively develop within existing functional flood plain (FZ3b) that would displace flood waters and flows, would set a precedent for future development proposals and would undermine the goals of this collaborative approach [the FAS] and, in doing so, jeopardise the sustainability and resilience of existing downstream development. Such a precedent is unacceptable.
- The submitted FRA does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.
- Historic flooding of the site has not been fully assessed, in particular the 2015 flood event has not been considered in the FRA [also] the site was recently flooded in April 2018.
- Site users could be exposed to flooding with a hazard classification of 'danger for all'. This means it is considered too dangerous for even the emergency services during a flood event [note: West Yorkshire Fire and Defence have indicated that they would not object to the development, subject to the access road being designed to a specified standard]
- The FRA has not adequately assessed the impacts of the proposed raised areas on flood risk to others, for the lifetime of the development.
- There is a likelihood that the voids and/or their screens will silt up and cannot be relied upon for the lifetime of the development.
- Fenced voids do not equate to unrestricted flood flow routes - Flood waters routinely carry debris such as silt, sediment, litter and vegetation, particularly in urban areas such as this. Such debris can block debris screens or fill voids, preventing or restricting the free flow of water.
- The voids proposed below the buildings appear to be lower than the ground levels and are designed to have mesh between stilts - This should not be considered as appropriate compensation as it is highly likely to silt up over time and become non-functional.

- This is also not an appropriate mitigation as the proposed voids could be filled with water from a previous flood event, for example, and therefore not be available for the required storage capacity.
- Compensation cannot be provided within the site (as the entire site lies within Flood Zone 3)
- Climate change has not been adequately considered in the storage proposals.
- The use of stilts and voids is not true floodplain compensation, but rather mitigation of risk by design - The use of stilts reduces the impact of the development but does not guarantee that the floodplain will be retained in the same way ... and therefore does not guarantee that the development will not increase flood risk.
- We consider that the only way to ensure that there is no unacceptable increase in flood risk is to ensure that this development does not go ahead. As such we do not consider that it is appropriate to recommend planning conditions.

### ***Highways Development Control***

- Having reviewed the details submitted there are a couple of points that need clarification before a full highway assessment can be made.
- The Transport Assessment (TA) describes the planning application as 'outline' in nature where 'the exact land use mix for the development has not been fully confirmed', however the planning application is listed as a 'Full' application. The quantum of development on both the application form and TA do appear to be the same.
- The TA states that the level of car parking provision has been considered in accordance with council's current guidelines as set out in 'Appendix C of the Replacement Unitary Development Plan'.
- It should be noted that the current guidance now is Appendix 4 of the Core Strategy although the parking requirements for the proposed B2 and B8 uses have not changed.
- The TA also goes on to say that 'The exact level of car parking provision will be considered as a reserved matter as part of a future detailed planning application once the exact quantum and details of site occupiers are known'.
- Given that this appears to be a full planning application then the quantum of development, and appropriate levels of parking, need to be agreed now.
- If the end occupiers are not yet known then a worst case scenario should be applied i.e. a greater B2 Use.
- Clarification to the above should be provided in the form of a Technical Note as an addendum to the TA.

### ***Landscape Design 1<sup>st</sup> Response***

- The site lies within the Airedale Landscape Character Area (see CBMDC SPD: Landscape Character SPD Volume 1: Airedale) and is located mostly within the green belt landscape type of "floodplain pasture", the bottom part of the site is located within the landscape type of "industrial corridor". Relevant policies include GB1, EN4.

- The overall description in the above SPD of the “floodplain pasture” landscape type states that.....*“The floodplain features as a prominent expanse of flat land covered with fields and hedges with distinctive perpendicular elements of Lombardy poplars. The river is marked by a sinuous line of trees meandering slowly across the plain whilst the canal follows the contours around its northern edge. The transport corridor is visible stretching across the floodplain. The railway passes close in to the valley side along the southern edge of the pastures and the A629 cuts up the areas of pasture and passes on a wide raised embankment straight through from Keighley to Skipton. The landform gives a very definite boundary to the area, and the lack of development illustrates the direct and uncomplicated link that still exists between the physical landscape and the land use.”* The visual prominence and enclosure is described as prominent and open.....*“The large area of flat land is prominent from all the major transport routes running through it as well as from the valley sides. Though surrounded by valley slopes the landscape has an open character.”*
- In the above SPD the strength of character of the “floodplain pasture” is described as strong.....*“Large, flat, hedgerow-bounded fields are very distinctive within this landscape.”* and the condition noted as declining, the policy guidelines for the area are to conserve and restore the landscape character.....*“Conserve this unique area of distinctive open floodplain pasture. Prevent development of this landscape and the encroachment of urban influences such as lights, road ‘improvements’ etc.....Conserve the farmed land use, traditional agricultural practices and field pattern.....Conserve and restore hedgerows with management and replanting.....Enhance corridor of A629 through sensitive, low key, tree and hedgerow planting.....Encourage low intensity farming which could allow for creation or restoration of meadows.”*
- The SPD policy guidelines regarding the potential for development also state that.....*“With strong character, high historic continuity and being prominent and open this landscape is very sensitive to change; and the fact that there is virtually no historic pattern of development here would indicate that any development could only be detrimental to the landscape character. In addition there are no other expansive areas of floodplain in the District and once its open, undeveloped character is breached, this distinctive landscape will be lost forever. Should further development be required within this area, it could best be accommodated within a wooded setting on the higher ground south of the railway adjacent to Steeton, Eastburn and Keighley. In this way the principle of building on the valley slopes is continued, and the canal and railway are retained as effective boundaries to the main area of floodplain pastures.”*
- Any proposals within the “floodplain pasture” landscape type would therefore need to look to conserving and restoring the distinctive landscape character of the area and would need to be sympathetic to this important character. We believe that the proposed development would neither conserve nor restore the sensitive landscape character and qualities of the area and that it would contribute to the deterioration of this unique landscape.
- However, if the proposed development is to be considered further at this location, a full Landscape and Visual Impact Assessment would need to be submitted with the planning application in order to fully assess the impact of the proposed development on the Airedale Landscape Character Area green belt and the surrounding environment.

### ***Landscape Design 2<sup>nd</sup> Response***

- The site takes in the Beechcliffe Oxbow Lake which has value as a wildlife habitat and is a designated Bradford Wildlife Area (BWA). This will be largely destroyed if the proposal proceeds to construction. Looking back at historic maps of the area it can be seen that in the 1800's the oxbow lake was a meandering loop of the river. Construction of the Aire Valley trunk road in more recent times appears to have covered some sections of the former river bed, but the section that is left on this site is very clearly seen as a redundant river channel. In that respect, this feature has some historic as well as wildlife value. The Habitat Survey Report states that the Beechcliffe Oxbow Lake is located directly adjacent to the site which is not the case, as the submitted plans show it obliterated by proposed units 2, 3 and 4. I would strongly suggest that the whole of the BWA is retained in its current form and the layout of the site revised accordingly.
- The cut and fill operation that will be required to adjust the level across the whole site is a total re-profiling of the landform that will remove all existing vegetation and preclude the retention of any trees. The removal of 170mm depth of the surface across much of the site in order to fill the lower areas which includes the oxbow lake seems counterintuitive to minimising the potential for flooding of the site.
- Previous comments submitted in respect of landscape design issues referred to the fact that the site lies within the Airedale Landscape Character Area. This proposal is contrary to the policy of the relevant SPD.
- The Visual Impact Statement that has been supplied is in my opinion relatively superficial and a scheme of this calibre demands that a fuller Landscape and Visual Impact Assessment be produced. Without a full LVIA it is simply indefensible to state that *'This document will be used as supporting evidence to demonstrate that that the development would not have any significant detrimental impact on the wider landscape...'*
- The conclusion of the supplied Visual Impact Statement states (again) that the development will have minimal impact on existing landscape character. Again I would repeat that there is no substance to this given that it is based on a limited and simplistic appraisal of visual impact, with no consideration of landscape effects. The report also concludes that *'The site offers the opportunity, though a landscape led strategy, to offer a valuable site for the provision of new commercial space on an accessible and sustainable site.'* Had the proposal genuinely been based on a landscape led strategy, the oxbow lake would be retained.
- If the site does offer the opportunity for the provision of new commercial space then in my opinion it is in the form of a less extensive development that respects the existing landscape character of this edge of town riverside location.

### ***Landscape Design 3<sup>rd</sup> Response***

- The client states that they have provided a comprehensive plan to show habitat mitigation measures in full. This is not the case. What has been provided is an 'Ecological Habitat Plan' which does not offer quantified compensation for the destruction of the habitat of the Bradford Wildlife Area.

- The Phase 1 Habitat Survey excluded the part of the site that is the Bradford Wildlife Area, which is an oxbow lake. Details of a suitable landscape design scheme linked with ecological mitigation measures absolutely should be provided by the applicant, but the appropriate nature and scale of these measures can only be fully determined by first having a thorough understanding of the baseline conditions.
- I draw attention to Core Strategy Policy EN2 which states specifically that development on a site with this designation “will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the substantive nature conservation value of the site.”
- If it is determined that there are positive reasons for development that outweigh loss of the Bradford Wildlife Area, then the following applies;
- “The development would be expected to result in no overall loss of habitat, through avoidance, adequate mitigation or, as a last resort, the provision of compensatory habitats adjacent to or within the vicinity of any losses proposed. Existing habitats and proposed mitigation or compensatory measures should be quantified.”
- It will be essential for the applicant to provide, by employing an appropriately qualified professional, an analysis of the ecology baseline condition across the whole application site including the oxbow lake. The applicant will then be able to show that the detail of the proposed landscape design is tailored to offer quantified mitigation and/or compensation for all habitats that will be lost.

#### ***Natural England 1<sup>st</sup> Response***

- Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the South Pennine Moors SPA and SAC have been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the sites’ conservation objectives.
- In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the South Pennine Moors SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(I) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.
- We have not assessed this application and associated documents for impacts on protected species.
- If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

### ***Natural England 2<sup>nd</sup> Response***

- Natural England has previously commented on this proposal and made comments to the authority in our letter dated 26 October 2017. I enclose a copy of the letter for your reference.
- The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.
- The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.
- Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

### ***Planning Policy – Sequential Test Review***

- In regards to the area of search a site which is over 10ha is of such a significant size, I think this makes it at least a District wide level of search. The Core Strategy for example only allocate 30ha of employment land for the next 15 years in Airedale.
- Taking this into account, the following sites are more sequentially preferable:
  - BN/E1.17 - WOODHALL ROAD, THORNBURY
  - BS/E1.7 STAITHGATE LANE NORTH, ODSAL
  - K/UR5.39 BANKLANDS AVENUE EAST, SILSDEN
  - K/UR5.36 HAINSWORTH ROAD, SILSDEN
- The above sites are all within lower to no flood risk zone.
- This does not include a list sites which are not allocated but may be vacant in the District. Something I would expect to see in a sequential assessment.
- Notwithstanding the above, the consideration of the sequential assessment or exception test should not have been undertaken. The NPPF and the supporting NPPG make it clear applications 'less vulnerable development' are not appropriate in Flood Risk Zone 3b.
- Like the NPPF, the NPPG is a material consideration in the determination of planning applications. The NPPG is there to provide further detailed information to the contents of the NPPF, and thus hold the same status and weight in the determination of applications.
- If the application were to be approved it may be called in by the Secretary of State as a departure to the development plan as it's within the Green Belt, and the EA also have call in powers due to the flood risk issue.

### ***Rights of Way 1<sup>st</sup> Response***

- Records indicate a number of public footpaths will be affected by these proposals as marked purple, blue and red on the plan below. Routes marked purple (namely Keighley Public Footpaths 11 and 12) are legally recorded on the Definitive Map. Routes marked blue (Keighley 718 and 699) are non-definitive in that while they may not be legally recorded they are routes that have been accepted by

landowners as being public and are regularly used by footpath users. The red route to the west is also known to be un-adopted public highway (which also extends further to the north and south) and the red route to the east is known to have been used predominately in recent years to access the riverside path towards Stockbridge.

- The proposals as submitted will require a legal order to realign the Definitive paths (purple) onto a new route running around and between the commercial units (and along the line of the new proposed drainage channel). Such a legal order is open to public consultation and possible objection and the applicant would be advised to discuss specific requirements at an early stage as such legal orders, once commenced can take in excess of 6 months to process. Please note that at this stage no guarantee can be made that such an order will be successful. The proposals as submitted appear to indicate that the new section of path will run in a narrow corridor in-between the buildings.
- Such a proposal is not something that the Rights of Way Section or footpath users would accept as being a suitable replacement for the existing public right of way. The applicant is requested to either amend the plans to make any use of the path more appealing i.e. to redesign the site layout so that the path runs through a wide landscaped green corridor or alternatively looks to divert the route fully around the perimeter of the site i.e. along the western and northern edge of the site. This would connect the end of Keighley 718 with the river side path Keighley 699 at the north eastern edge of the site.
- This proposal should be designed to allow the path to run in a green corridor in conjunction with revised landscape proposals. Other than the section alongside the bypass the path should feel more open on at least one side and in-turn should allow the applicant to address any site security measures as already raised by the Police. Any new section of path should be provided at a minimum width of 2m running with in the green corridor (minimum width of 5m) and ideally should include a surface of crushed stone.
- As regards the proposed development we are aware that parts of the land already flood and this helps form part of an area up the valley that is used as a flood plain. Access to the existing paths in the area can at times be restricted due to the flooding and while it is noted that the development will look to address some flooding/drainage issues through design there is a concern that any building on this site, is going to add to flooding problems.
- This is likely to cause further problems to the footpaths as well as adding to flooding issues in the Stockbridge area. There is also a concern that proposals to cut and fill will add to the problems as existing low level areas tend to retain flood water for some time after river levels elsewhere have dropped. This in turn may create flooding issues on sections of path not currently affected by flood water. It should also be noted that flooding in previous years has caused damage to the river bank both within the site boundary and along the stretch of path towards Stockbridge.
- In places this has required minor realignment of the path, tree planting to help stabilise the river bank and revetment work to the footpath. Again building on this flood plain and any subsequent alterations to the flow of water is likely to have an adverse impact on the river bank and subsequently the footpath. Many years ago

the Environment Agency had looked at doing works to the river bank to the rear of Royd Ings Avenue but due to the costs the works were never carried out. As such the Rights of Way Section would also request that the developer contributes a financial sum towards the upkeep of the river bank and footpath both within the site and along the footpath link to Stockbridge. This funding will go towards works to include, vegetation clearance, riverbank stabilisation works including tree planting, revetment and minor surfacing.

- In addition it is noted that the walked line of K699 does not follow the top of the river bank but is currently some 10-15m in land and while it is noted that the proposed units will be stepped back from the river it is essential that a buffer strip is retained to ensure that access to the path can remain in the event of further river erosion or future changes to the line of the river. It is suggested therefore that a buffer strip of at least 20m is retained along the edge of the existing riverbank.
- At this stage the Rights of Way Section are unable to support these proposals but would be willing to discuss our requirements further if required.
- If planning permission is granted please ensure that the applicant is made aware of the need to adhere to the standard requirements during the period of any works on site.

### ***Rights of Way 2<sup>nd</sup> Response***

- The revised proposals appear to have acknowledged the need to divert sections of public footpaths Keighley 11, 12 and a short stretch of footpath 699. This process will need to be done by legal order. Such an order will most likely be pursued under section 257 of the Town and Country Planning Act to enable any development to take place. Any order is open to public consultation and possible objection; as such the Rights of Way Section is unable to guarantee if an order will be successful. Applications can take 6-18 months to determine so the applicant is advised to discuss specific requirements with the Rights of Way Section at an early stage to avoid delays. Any new section of path will also need to be constructed to a standard acceptable to the Council and may include other improvements to facilitate any diversion.
- With respect to the plans as submitted I do have slight concerns regarding the proposed section of new path running to the rear of unit number 4, ideally any new path should run through a wide green corridor but it is noted that this section of path to the site boundary will run directly adjacent to that unit, while this is less than ideal any landscaping works should try to ensure the path retains an open feel at that point and that any restriction in width is kept to a minimum. It should be noted that the width of the new footpaths to be provided should have a minimum width of 2m and be inclusive of a crushed stone surface.
- The Rights of Way Section still have concerns regarding the use of this land for development due to any possible adverse effect on the flood plain and the loss of historic landscape features in the area. While it is noted that the existing footpaths are subject to occasional flooding we would like to ensure that these proposals do not add to flooding problems within this site and at other locations in the area as noted in my original comments. As such we would be guided by any comments my colleagues in Drainage will make on these proposals.

- With respect to the riverside path it is noted that it is retained in a green corridor however we would still like to ensure that the applicant is asked to commit to carrying out works to help stabilise the river bank, as this will help limit future erosion, as river bank erosion may in the future adversely affect access to the riverside public right of way. Such works should include the riverbank within the site boundary and a commitment to improve the riverbank to both the north and south of the site. Any landscaping proposals should include proposals for these works.
- If planning permission is granted please ensure that the applicant is made aware of the need to adhere to the standard footpath protection requirements during the period of any works on site.

### ***Rights of Way 3<sup>rd</sup> Response***

- My comments on the whole are the same as previously made, however I would like to reiterate the following.
- Any diversion of a public path will require a legal order and as the process is open to public consultation and possible objection no guarantee can be made that an order will be successful. The applicant will need to agree to meet not only the legal costs in making the order but also any construction costs to construct any new route to acceptable standards. Such construction works may include surfacing, drainage and flood defence work to ensure any new section of path is acceptable for future and continued use. Such improvements may include other works to other footpaths in that area to facilitate and compliment any diversions within and adjacent to the application site. Please ensure that in the approval footnotes that they refer to the need for a legal order and make reference to our standards requirements during any onsite works.
- As noted before, if planning permission is granted please ensure that the applicant is made aware of the need to adhere to the standard requirements for footpath protection during the period of any works on site.

### ***West Yorkshire Fire and Rescue Service***

West Yorkshire Fire and Rescue Service do not object to the development subject to access being to the standard stipulated:

Provide and maintain access and facilities for the fire service in accordance with Approved Document B: Vol 2 – Section B5. Building developers should take the following into account when considering building design and vehicle access requirements. West Yorkshire Fire & Rescue Service has dual purpose pumping/high reach appliances. These appliances have a working width of 5.08 metres and a gross weight of 24 tonnes. In addition, many of the traditional 12 tonnes pumping appliances have been replaced with multi-purpose heavy rescue appliances having a gross weight of 15 tonnes. These weights and sizes are different to those stated in Approved Document B: Vol 2 – Section B5.

### ***West Yorkshire Police 1<sup>st</sup> Response***

- Looking at the site plan, this appears very permeable in that there is unrestricted access around all of the units and parking areas, with no defensible space for each individual unit.

- I would recommend that any rear boundary treatments for each unit are to a height of 2m in order to provide more security and to restrict access around the rear of the units. These could be a closed welded mesh fencing which allows surveillance into the site and the surrounding area, (suitable standards are to LPS 1175 security rating 2 or above). Defensible planting such as hawthorn, blackthorn can also provide boundaries to certain areas of the site where more greenery or natural borders are required.
- I don't know what the intention will be for this industrial area, such as opening hours or the types of business. I would recommend that there be access control on the entrance to each site such as manual lockable gates. Gates can be left open during operational hours but locked when the businesses are closed which will prevent any strangers or potential offenders from accessing the car park and attempting crime or anti-social behaviour activities within the parking area.
- Where parking is directly adjacent to the units or entrance doors it would be prudent to install knee railing fencing along the fronts of the parking bays to prevent any vehicles from either accidentally or deliberately driving into the front of the units or doors to gain entry.
- External lighting should be installed to cover the parking bays, footpath routes leading to the building and each entrance into the units. Suitable types of lighting are photo cell or dusk until dawn lighting which are energy efficient and cost effective to use. I would ensure that lighting levels are good enough to allow for visibility and surveillance but are not excessively bright which could cause light overspill.
- PIR / sensor lighting is not recommended as sensors can be knocked off balance which can disable the lights from working allowing an offender an opportunity to commit crime and remain unseen. If there is a constant light there is more chance to see any person acting suspicious or loitering in the area which can be reported to the Police.
- I would recommend installing monitored CCTV to cover the areas above, including any internal areas where required. CCTV should work in unison with the proposed lighting plan and provide good quality evidential images which are worthy for identification purposes.
- Any doors or windows should look to achieve security standards; PAS 24:2012, LPS 1175 issue 7 SR2 and STS 201 / STS 202 Issue 3 BR2. Aluminium door sets and windows can achieve PAS 24 standards in addition to BS 4873:2009.
- Any shutters that cover delivery areas should look to achieve standards; LPS 1175 issue 7 security rating 1 or STS 202 issue 3 SR 1 or above.
- Bradford District are still experiencing a high level of euro cylinder crimes where the lock is snapped or the area around the locking mechanism is melted to expose the lock barrel, which is then snapped by the offender allowing entry into a building. Some of the standards that are recommended by Building regulations can include euro cylinder locks which are 1 star rated which can be breached. If there are any doors being installed which include a euro cylinder lock, the lock should be checked to ensure that it is 3 star rated and achieves TS007 or Sold Secure Diamond Standard which offer more resistance to these types of attacks.

- Depending on the use of the units or how many staff will work within each unit (there are no floor plans at this stage to view), it may be that access control is required on the main entrance doors such as swipe card or key fob access this should be security encrypted to prevent any unauthorised copying. If an external intercom system is required, these should be vandal resistant and include colour CCTV and audio capabilities to allow visitors to contact any staff.
- The plans show that there are voids underneath the units which have mesh grill which are fitted to address flooding issues. What is the height / width of the grill and how will this be fixed? From a crime perspective I would want to ensure that any potential offender could not gain access underneath the units by removing the mesh grills which causes damage or types of criminal damage such as arson.
- I would recommend installing intruder alarms within each unit which have door contacts fitted to entrance doors or delivery doors / shutters, this will provide additional security for each unit. Suitable standards are to NSI (National Security Inspectorate) or SSAIB (Security System and Alarms Inspection Board). BS EN 50131 or PD6662 (wired alarm system) or BS 6799 (wire free alarm system).
- Alternatively if intruder alarms are not being provided by the Developer, installing a 13 amp spur point is a cost effective measure to apply and will allow any tenant the option of purchasing their own intruder alarm.
- Whilst there is no objection in principle to the application West Yorkshire Police are unable to support the proposal in its present form.

#### ***West Yorkshire Police 2<sup>nd</sup> Response***

- Having viewed the site plan and read through the design and access statement, it's positive to see the list of security measures that will be applied to secure the development. The inclusion of the mesh grills along the void area of the buildings will prevent any access beneath the buildings. The mesh panels should be a strong, durable material and either be securely welded to the metal poles / stilts or at least securely fixed using coach style bolts so that panels cannot be removed.
- The design and access statement does not mention any lighting within the development, depending on the hours of business operation, it would be prudent to include external lighting above the entrances and car park to help increase natural surveillance. As there are existing trees and wildlife within this location, lighting could have the canopies fitted so that light points downwards and prevents any light overspill.

#### ***West Yorkshire Police 3<sup>rd</sup> Response***

- The design and access statement lists the security measures which will be applied for this development which is very positive. I have listed the measures below:
  - 24 hour security office located at access point of the site.
  - 2.4m high palisade fencing installed around the perimeter of the site (other than at security gate at site entrance). It mentions that palisade fencing will also prevent any access to the grills which cover underneath the elevated buildings.
  - CCTV will cover the whole of the site and will be monitored by the security office.
  - Individual units will have an intruder alarm installed to BS EN 50131

- Doors and windows to achieve one of the following standards; PAS 24:2012, LPS 1175 issue 7 SR2, STS201/STS 202 issue 3 BR1. Aluminium door sets/ windows can achieve PAS 24:2012 and BS 4873:2009.
- Shutters for delivery areas to achieve one of the following standards; LPS 1175 issue 7 SR1 or STS 202 issue 3 SR1 or above.
- There is no mention of external lighting within the design and access statement. Depending on the hours of business operation it would be prudent to include a low energy photo-electric cell / dusk till dawn lights which cover the entrances and parking areas to increase natural surveillance. The surrounding area does have existing trees and wildlife within close proximity, so any lighting should not be too bright which could cause light overspill. Depending on the operational hours of the business, lights could be on a timer switch or dimmed when the units are closed.
- It's positive to see that mesh grills will be fitted to protect the void areas beneath the buildings. Material should be durable and either welded to the metal poles / stilts or securely fixed with coach bolts so that panels cannot be removed.
- West Yorkshire Police have no objection in principle to the proposal and would seek to have the above recommendations conditioned as part of any planning approval.

### ***Yorkshire Water***

- It appears from the latest submitted site layout that buildings will be sited over the public sewerage system located within the site. This could seriously jeopardise Yorkshire Water's ability to maintain the public sewerage network and is not acceptable.
- We therefore OBJECT to the development layout as currently shown. I strongly advise that, prior to determination of this application, the site layout is amended to allow for adequate protection of the sewers.
- On the Statutory Sewer Map, there is a 750mm diameter public surface water sewer recorded to cross the south east corner of the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme.
- In this instance, a stand-off distance of 4 (four) metres is required at each side of the sewer centre-line.
- There is an outfall to watercourse, under the control of Yorkshire Water, located near to the site.
- Vehicular access, including with large tankers, could be required at any time.
- The proximity of the existing outfall to the site may mean a loss of amenity for future residents / workers. In order to minimise the risk of odour, noise and nuisance, industry standards recommend that habitable buildings should not be located within 15 (fifteen) metres of the existing outfall. To reduce the visible impact of the installation, the erection (by the developer) of suitable screening is advised.

### **Summary of Main Issues:**

- 1) Green Belt
- 2) Floodplain
- 3) Landscape
- 4) Ecology
- 5) Rights of Way

- 6) Access, Highways and Air Quality
- 7) Community Safety Implications
- 8) Equality Act 2010, Section 149

**Appraisal:**

**1) Principle**

The majority of the proposal site is within the Green Belt - 8.7ha out of the full 10.7ha planning application area. Section 9 of the NPPF sets out a national framework for assessing the acceptability of proposals for the development of land within the Green Belt. At paragraphs 89 and 90 the NPPF defines types of development which can be treated as appropriate development within the Green Belt. The proposal cannot be considered to be covered by any of the exceptions set out in paragraphs 89 or 90 and must therefore be treated as inappropriate development within the Green Belt which is, by definition, harmful to the Green Belt.

In terms of the provisions of the RUDP, saved policy GB1 provides the local policy basis for assessing the appropriateness of proposals for new development within the Green Belt. The proposed development does not meet any of the exceptions stated within saved policy GB1 and therefore the proposal must also be treated as inappropriate development in terms of the local Green Belt policy framework, which should only be approved in very special circumstances.

The NPPF confirms at paragraphs 87 and 88 that:

87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The proposed development would harm the Green Belt by reason of its inappropriateness, by reason of the harm to the openness of the Green Belt which would be caused by the development of 6 large industrial sheds and associated infrastructure in the Green Belt (only 2 of the 8 proposed sheds being outside of the Green Belt), and by reason of the elements of the development which conflict with the stated purposes of including land within the Green Belt.

In relation to the harm the development would cause to the purposes of including land within the Green Belt, it should be noted that the NPPF sets out these purposes as follows:

- To check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;

- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

The stated purpose of including land in the Green Belt which is considered to be most relevant to the proposed development is the purposes of assisting in safeguarding the countryside from encroachment. It is considered that the proposed development of 6 industrial sheds in the Green Belt would represent significant urban encroachment into the countryside.

Overall, therefore, it is considered that the development would result in significant harm to the Green Belt in terms of inappropriateness, in terms of loss of openness and in terms of urban encroachment. Paragraph 88 of the NPPF advises that, when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

This report finds that the development will also cause significant harm to the functional floodplain, to a designated local wildlife site and to the character of the landscape. Therefore it is the harm to the Green Belt and the other harm identified in this report which are the subjects of the very special circumstances test. The considerations which are put forward in support of the application are the need for additional employment land and buildings in Keighley and the economic benefits of providing 9 new industrial units to be used for B2 and B8 purposes in Keighley.

In relation to these factors it is acknowledged that Policy AD1(C1) of the Adopted Core Strategy confirms that: Keighley and Bingley will be the principal focus for indigenous economic development including starter units for small and medium sized businesses, business park premises for larger digital, design and knowledge, financial and service sectors at Dalton Lane Business Innovation Zone and Royd Ings.

Core Strategy Policy EC1 sets out an aspiration for planning decisions to (amongst other things) deliver economic growth, restructuring and diversification, including through the development of a modern manufacturing sector and modernisation of manufacturing industries within the City of Bradford and the Airedale Corridor. Policy EC2 sets out the objective of delivering at least 1,600 new jobs annually in the District in the period to 2030 by planning for a supply of at least 135 hectares of developable employment land over the Local Plan period and protecting such land for employment uses. Core Strategy policy EC3 plans for the distribution of 30 hectares of new employment land in Airedale.

Core Strategy Policy EN4 sets out a policy for supporting economic growth and protecting existing employment sites from alternative uses. Policy EN4 also requires new developments of more than 1000 sq metres of non-residential floorspace to meet 'BREEAM Very Good' standards on buildings and by 2019 will meet 'BREEAM EXCELLENT' unless, having regard to the type of development involved and its design, this is not feasible or viable.

The proposed development would provide for approximately 1/3<sup>rd</sup> of the total amount of new employment land proposed for Airedale in the period up to 2030. However this planning application is made in advance of the preparation of the Allocations DPD, which will allocate the land considered suitable for employment uses and will include a full Green Belt review. Policy EC3 indicates that the required employment land to be identified in the Allocations DPD will be met from the following sources:

1. Unimplemented but deliverable sites allocated within the RUDP;
2. Other committed sites with planning permission for employment use;
3. Sites already identified in existing regeneration strategies for Bradford City Centre and Airedale.
4. Sites identified in current and emerging masterplans including that for the Shipley and Canal Road Corridor (including Manningham), City Plan for Bradford City Centre and the Leeds Bradford Corridor.
5. New sites which are considered suitable for employment use.

The proposal site is partly within the Green Belt and entirely within the functional floodplain, it is also transected by a public right of way, may comprise supporting habitat for the South Pennine Moors SPA and contains a local wildlife site. There is no reason to conclude that the site would be likely to be considered to be a suitable site for allocation as employment land, due to the significant harm the development of this land would cause to the Green Belt, to the functional floodplain, to the character of the landscape and to a local wildlife site. In any event, without a full review of all available alternative land within Airedale, it is not possible to come to a conclusion on whether it will be necessary to release any land in Airedale from Green Belt for employment use or (if so) what sites would be most suitable for Green Belt release. In this context the weight which can be put on the economic benefits of developing the land for employment use is considered to be limited.

Conversely national and local planning policies make it clear that substantial weight should be attached to the harm the development will cause to the Green Belt and that inappropriate development in the Green Belt can only be approved in very special circumstances. Very special circumstances can only be considered to exist where the harm the development will cause to the Green Belt and any other harm is clearly outweighed by other considerations. In coming to a decision on this planning application members of the Regulatory and Appeals Committee must consider whether any considerations in favour of the development, particularly in terms of the economic factors advanced by the applicant, clearly outweigh the harm the development will cause to the Green Belt and all other harm associated with the development.

After giving due consideration to, and placing substantial weight upon, the harm the development would cause to the Green Belt, as described above, the advice of Planning Officers to the Regulatory and Appeal's Committee is that, the benefits of developing the land for employment purposes do not clearly outweigh the harm the development would cause to the Green Belt, either when considering Green Belt harm in isolation or in combination with the harm the development would cause to the functional floodplain, to the character of the landscape and to a local wildlife site. Therefore the development is considered to be unacceptable in principle.

## **2) Floodplain**

The NPPF advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. A sequential test must be applied to development proposals involving land at risk of flooding and, if necessary, the exception test. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

If, following application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

The Environment Agency and the Council's Drainage Team (acting as lead local flood authority) have confirmed that the proposal site is in fact functional floodplain (Flood Zone 3B). This zone comprises land where water has to flow or be stored in times of flood. Planning Practice Guidance states that the only development which can be permitted within functional floodplain is essential infrastructure that has to be there and has passed the Exception Test, and water-compatible uses. The proposed development is neither essential infrastructure nor a water compatible use (which is narrowly defined) and therefore is unacceptable on functional floodplain.

The Council's Drainage Unit, acting in their capacity as Lead Local Flood Authority, have confirmed that the application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary to Tables 1 and 3 of the Practice Guide to the National Planning Policy Framework. The proposals are classified as 'Less Vulnerable' and as such are not permitted within Flood Zone 3b. The application therefore fundamentally contravenes national planning policy in respect of functional floodplains.

The application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary with policy EN7: Flood Risk of the Council's Core Strategy in that it fails to safeguard the potential to increase flood storage provision and improve defences within the River Aire corridor. The River Aire and the settlements alongside it suffered significant flooding during December 2015 and therefore existing floodplains are being investigated to determine if they could offer greater flood risk benefits within the River Aire corridor. The development of this part of the functional floodplain with industrial sheds could inhibit the delivery of any future initiatives to alter the land in a way which would provide greater flood benefits for the River Aire Corridor.

In terms of sequential testing, the applicant has now provided a Sequential and Exceptions Test report which identifies 15 potential alternative development sites within Airedale and discounts these sites on the basis of a variety of factors. However this report is insufficient to demonstrate that the sequential test is passed, as several alternative sites within Airedale and the Wider District have been identified which are outside of the floodplain and are potentially capable of accommodating substantial employment development. These sites are:

- *K/UR5.39 BANKLANDS AVENUE EAST, SILSDEN*
- *K/UR5.36 HAINSWORTH ROAD, SILSDEN*

In addition to the above 2 potential alternative sites at a lower risk of flooding the substantial area of land potentially available within the Esholt Waste Water Treatment Works comprising the redundant filter beds should also be considered. The adopted Core Strategy Key Diagram identifies this area as an Economic Growth Area. This recognition of the area's potential to deliver economic growth is linked to the long held aspiration to redevelop redundant land within the Waste Water Treatment Works for business purposes, as described in the Airedale Masterplan. Taking into account the above 3 potential alternative locations it is considered that insufficient evidence has been provided that there are no reasonably available alternative sites at a lower risk of flooding which could potentially accommodate the proposed development.

In terms of the exceptions test, the application does not include a hydrological assessment of the proposed alterations within the floodplain, and whether these alterations will have an effect on flood risk within the River Aire catchment. The current flood levels used by the applicant in his assessment of flood risk do not include the latest allowances for climate change. Additionally the development scheme does not clearly show how the flood water which will be displaced by the access road, raised car parks and ramps or the surface water attenuation system will be compensated for within the site. The second part of the Exception Test has therefore not been passed as 'development has not been shown to be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.

The applicant has provided a document which sets out examples of development schemes, of a variety of scales, which have utilised unconventional building techniques to allow buildings to be developed within areas at high risk of flooding, such as the proposal site. It is acknowledged that, where development is necessary on an area of land at risk of flooding, then it is possible to utilise techniques such as building on stilts to mitigate flooding issues to some degree. However such techniques are not guaranteed to be successful or to fully mitigate flood risks, are only likely to be viable in specific circumstances and should only be utilised where no other land is available to build upon at a lower risk of flooding.

The applicant has not robustly demonstrated that the proposed development would fully mitigate flood risks, has not demonstrated that such techniques would be viable in this instance (no development appraisal/ viability assessment has been submitted despite a request for this information) and has not demonstrated that there is no other reasonably

available development land within either Airedale or the wider District. Furthermore the use of unconventional building techniques does not alter the national planning guidance position that functional floodplains should not be built upon and does not obviate the need to pass the sequential and exceptions test, as set out in the NPPF and Core Strategy Policy EN7.

The Environment Agency have also confirmed that they maintain their objection to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The Environment Agency recommend that the application should be refused planning permission on this basis. In their letter of 04 May 2018 the Environment Agency have expanded upon their position and provided additional advice on the principles of developing on functional floodplain and the likely effectiveness of the proposed mitigation. This further advice includes:

- We consider the proposed development conflicts with ... local planning policies, firstly that ... the Council will not permit development in areas shown as functional floodplain (Flood Zone 3b) in the SFRA. The proposed development would also conflict with the aim to safeguard the potential to increase flood storage provision, and we consider there has been insufficient demonstration within the submitted information that the proposal does not increase flood risk elsewhere.
- Granting planning permission to actively develop within existing functional flood plain (FZ3b) that would displace flood waters and flows, would set a precedent for future development proposals and would undermine the goals of this collaborative approach [the FAS] and, in doing so, jeopardise the sustainability and resilience of existing downstream development. Such a precedent is unacceptable.
- The submitted FRA does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.
- Historic flooding of the site has not been fully assessed, in particular the 2015 flood event has not been considered in the FRA [also] the site was recently flooded in April 2018.
- Site users could be exposed to flooding with a hazard classification of 'danger for all'. This means it is considered too dangerous for even the emergency services during a flood event [note: West Yorkshire Fire and Defence have indicated that they would not object to the development, subject to the access road being designed to a specified standard]
- The FRA has not adequately assessed the impacts of the proposed raised areas on flood risk to others, for the lifetime of the development.
- There is a likelihood that the voids and/or their screens will silt up and cannot be relied upon for the lifetime of the development.
- Fenced voids do not equate to unrestricted flood flow routes - Flood waters routinely carry debris such as silt, sediment, litter and vegetation, particularly in urban areas such as this. Such debris can block debris screens or fill voids, preventing or restricting the free flow of water.
- The voids proposed below the buildings appear to be lower than the ground levels and are designed to have mesh between stilts - This should not be considered as appropriate compensation as it is highly likely to silt up over time and become non-functional.

- This is also not an appropriate mitigation as the proposed voids could be filled with water from a previous flood event, for example, and therefore not be available for the required storage capacity.
- Compensation cannot be provided within the site (as the entire site lies within Flood Zone 3)
- Climate change has not been adequately considered in the storage proposals.
- The use of stilts and voids is not true floodplain compensation, but rather mitigation of risk by design - The use of stilts reduces the impact of the development but does not guarantee that the floodplain will be retained in the same way ... and therefore does not guarantee that the development will not increase flood risk.
- We consider that the only way to ensure that there is no unacceptable increase in flood risk is to ensure that this development does not go ahead. As such we do not consider that it is appropriate to recommend planning conditions.

In conclusion it is considered that the development is unacceptable in principle in relation to national and local policies pertaining to developing land at risk of flooding and in particular to developing land defined as functional floodplain. Furthermore the advice of the Environment Agency is that there is no reasonable likelihood that the mitigation measures which the applicant proposes will operate effectively for the lifetime of the development. The application is therefore considered to be contrary to Core Strategy Policy EN7.

### **3) Landscape**

Core Strategy policy EN4 states that Development Decisions as well as Plans, policies and proposals should make a positive contribution towards the conservation, management and enhancement of the diversity of landscapes within the District. The site lies within the Airedale Landscape Character Area and is located mostly within the landscape type of “floodplain pasture”, the bottom part of the site is located within the landscape type of “industrial corridor”.

The site takes in the Beechcliffe Oxbow Lake which has value as a wildlife habitat and is a designated Local Wildlife Site. This will be largely destroyed if the proposal proceeds to construction. This feature has some historic as well as wildlife value. The submitted plans show it obliterated by proposed units 2, 3 and 4. The cut and fill operation that will be required to adjust the level across the whole site is a total re-profiling of the landform that will remove all existing vegetation and preclude the retention of any trees.

The overall description in the above SPD of the “floodplain pasture” landscape type states that.....”The floodplain features as a prominent expanse of flat land covered with fields and hedges with distinctive perpendicular elements of Lombardy poplars. The river is marked by a sinuous line of trees meandering slowly across the plain whilst the canal follows the contours around its northern edge. The transport corridor is visible stretching across the floodplain. The railway passes close in to the valley side along the southern edge of the pastures and the A629 cuts up the areas of pasture and passes on a wide raised embankment straight through from Keighley to Skipton.

The landform gives a very definite boundary to the area, and the lack of development illustrates the direct and uncomplicated link that still exists between the physical landscape and the land use.” The visual prominence and enclosure is described as prominent and open.....”The large area of flat land is prominent from all the major transport routes running through it as well as from the valley sides. Though surrounded by valley slopes the landscape has an open character.”

In the above SPD the strength of character of the “floodplain pasture” is described as strong.....”Large, flat, hedgerow-bounded fields are very distinctive within this landscape.” and the condition noted as declining, the policy guidelines for the area are to conserve and restore the landscape character.....” Conserve this unique area of distinctive open floodplain pasture. Prevent development of this landscape and the encroachment of urban influences such as lights, road ‘improvements’ etc.....Conserve the farmed land use, traditional agricultural practices and field pattern.....Conserve and restore hedgerows with management and replanting.....Enhance corridor of A629 through sensitive, low key, tree and hedgerow planting.....Encourage low intensity farming which could allow for creation or restoration of meadows.

The SPD policy guidelines regarding the potential for development also state that.....”With strong character, high historic continuity and being prominent and open this landscape is very sensitive to change; and the fact that there is virtually no historic pattern of development here would indicate that any development could only be detrimental to the landscape character. In addition there are no other expansive areas of floodplain in the District and once its open, undeveloped character is breached, this distinctive landscape will be lost forever. Should further development be required within this area, it could best be accommodated within a wooded setting on the higher ground south of the railway adjacent to Steeton, Eastburn and Keighley. In this way the principle of building on the valley slopes is continued, and the canal and railway are retained as effective boundaries to the main area of floodplain pastures.”

Any proposals within the “floodplain pasture” landscape type would therefore need to look to conserving and restoring the distinctive landscape character of the area and would need to be sympathetic to this important character. The Council’s Landscape Design team have advised that the proposed development would neither conserve nor restore the sensitive landscape character and qualities of the area and that it would contribute to the deterioration of this unique landscape.

A Visual Impact Statement has now been supplied to support the application along with bolstered landscaping proposals, including additional native tree and bush planting and wildflower grassland areas. This document has been reviewed by the Council’s Landscape Architect who has confirmed that, in his opinion, the statement is relatively superficial and a scheme of this calibre demands that a fuller Landscape and Visual Impact Assessment be produced.

The conclusion of the supplied Visual Impact Statement states that the development will have minimal impact on existing landscape character. However the Council’s Landscape Architect advises that there is no substance to this given that it is based on a limited and

simplistic appraisal of visual impact, with no consideration of landscape effects. The report also concludes that 'The site offers the opportunity, though a landscape led strategy, to offer a valuable site for the provision of new commercial space on an accessible and sustainable site.' Had the proposal genuinely been based on a landscape led strategy, the oxbow lake would be retained.

If the site does offer the opportunity for the provision of new commercial space then the Council's Landscape Architect advises that it should be in the form of a less extensive development that respects the existing landscape character of this edge of town riverside location. In its current form the proposed development is therefore considered to unacceptably affect the character of the landscape and to be contrary to policy EN4 of the Core Strategy.

#### **4) Ecology**

Core Strategy policy EN2 states that proposals should contribute positively towards the overall enhancement of the District's biodiversity resource. They should seek to protect and enhance species of local, national and international importance and to reverse the decline in these species. The Council will seek to promote the creation, expansion and improved management of important habitats within the district and more ecologically connected patchworks of grasslands, woodlands and wetlands. Opportunities for specific habitat creation within development proposals will be sought, including provision for future management. Development which would cause serious fragmentation of habitats, wildlife corridors or have a significantly adverse impact on biodiversity networks or connectivity will be resisted.

Core Strategy Policy SC8 states that, subject to the derogation tests of Article 6(4) of the Habitats Directive, within 7Km from the boundary of the South Pennine Moors Special Protection Area ("SPA") and South Pennine Moors Special Area of Conservation will not be permitted where it would be likely to lead, directly or indirectly, to an adverse effect (either alone or in combination with other plans or projects), which cannot be effectively mitigated, upon the integrity of the SPA or the SAC.

Core Strategy policy EN5 confirms that, in making decisions on planning applications, trees and areas of woodland that contribute towards the character of a settlement or its setting or the amenity of the built-up area, valued landscapes or wildlife habitats will be protected. Paragraph 109 of the NPPF confirms that one of the government's objectives for the planning system is to minimise impacts on biodiversity and provide net gains in biodiversity where possible.

The proposal site includes an Ox-bow wetland which is identified on the Proposals Map as a Bradford Wildlife Area. The site was re-surveyed in July 2017 and qualifies under the West Yorkshire Local Site criteria as species-rich swamp and will therefore be designated as such. A number of individual field trees and areas of vegetation/ woodland are also included within the site. The Habitat Assessment submitted with the planning application includes a study area which does not include the full proposal site and specifically does not include the Ox-bow wetland. The Habitat Assessment confirms that the site contains habitats of moderate to high ecological value.

It is clear that the proposed development site, although seemingly excluded from the development site in the Phase 1 Habitat report, actually does include the oxbow site in its entirety. The cut and fill plan submitted shows that not only is the oxbow included within the development site, but is actually to be obliterated as part of the cut and fill operation. Given the local ecological importance of the site, Bradford Development Plan Core Strategy policy EN2 comes into play, in relation to locally designated sites. Given that the oxbow feature is unique it is difficult to envisage how such a proposal could be supported, and impossible to envisage how the impact on it could be mitigated or compensated for.

Although the applicant has now supplied further proposals for ecological enhancement and mitigation, including native tree and bush planting, wildflower grass areas, bird boxes, bat boxes/ bricks, hedgehog houses and damp marginal wildflower areas, there is no evidence that these provisions would be sufficient to effectively mitigate the ecological harm which would be caused by the development.

In addition to the above concerns, the Habitat Report submitted, although confirming that the site supports both lapwing and curlew, does not make any reference to the Core Strategy policy SC8, which seeks to protect the South Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC) from adverse impacts. This policy identifies a zone (Zone B) extending 2.5km from the boundary of the SPA/SAC, within which impacts on supporting habitat should be avoided.

Given that the development site lies just under 2km from the SPA/SAC and supports lapwing and curlew – both of which are qualifying bird species for the SPA – there is a possibility that the site could be used for foraging and feeding by these species and therefore be regarded as supporting habitat. In order to confirm this, foraging bird surveys would be required (as also recommended by the Phase 1 Habitat report) and if confirmed as supporting habitat, the proposal would lead to an adverse effect which could not be effectively mitigated, contrary to the provisions of the Habitats Regulations and Core Strategy Policy SC8

The Council's Biodiversity team have advised that, given the significant impact that this proposal appears to have on a designated Local Site and, potentially on supporting habitat of the South Pennine Moors SPA, and the absence of any detail as to how these impacts will be avoided or mitigated, it is not possible to support this application in its current form and, from an ecological and biodiversity viewpoint. The proposal is therefore considered to be contrary to Core Strategy Policies SC8 and EN2.

#### **5) *Rights of Way***

One of the objectives set out in Strategic Core Policy SC6 of the Core Strategy is improving opportunities for walking, cycling and horseriding, establishing strategic green links and enhancing the rights of way network in urban and rural parts of the district. Policy AD1 carries this objective through with a stated policy to improve public rights of way and canal towpaths in Airedale. Core Strategy Policy DS4 confirms that the design of new development should integrate existing footpaths/cycle routes on the site into the development.

Records indicate a number of public footpaths will be affected by these proposals. Keighley Public Footpaths 11 and 12 are legally recorded on the Definitive Map. Routes Keighley 718 and 699 are non-definitive in that while they may not be legally recorded they are routes that have been accepted by landowners as being public and are regularly used by footpath users. A route to the west of the site is also known to be un-adopted public highway (which also extends further to the north and south) and a route to the east of the site is known to have been used predominately in recent years to access the riverside path towards Stockbridge.

The proposals as submitted will require a legal order to realign the Definitive Paths onto a new route running around and between the commercial units (and along the line of the new proposed drainage channel). Such a legal order is open to public consultation and possible objection and the applicant would be advised to discuss specific requirements at an early stage as such legal orders, once commenced can take in excess of 6 months to process. Please note that at this stage no guarantee can be made that such an order will be successful.

The applicant has now provided revised proposals, which include an improved footpath diversion route and acknowledge the need to divert sections of public footpaths Keighley 11, 12 and a short stretch of footpath 699. The Council's Area Rights of Way Officer has withdrawn his objection on this basis but has advised of their slight concerns regarding the proposed section of new path running to the rear of unit number 4; ideally any new path should run through a wide green corridor.

With respect to the riverside path it is noted that it is retained in a green corridor. However the Council's Area Rights of Way Officer has requested that the applicant is asked to commit to carrying out works to help stabilise the river bank, as this will help limit future erosion, as river bank erosion may in the future adversely affect access to the riverside public right of way. Subject to these improvements being secured there is no longer considered to be any reason to refuse planning permission in relation to the developments' impacts on the public rights of way network.

#### **6) Access, Highways and Air Quality**

Adopted Core Strategy policy TR1 indicates that through planning decisions the Council will aim to reduce the demand for travel, encourage and facilitate the use of sustainable travel modes, limit traffic growth, reduce congestion and improve journey time reliability through (amongst other things) ensuring that development is appropriately located to ensure that the need to travel is reduced, the use of sustainable travel is maximised, and the impact of development on the existing transport networks is minimal. Paragraph 32 of the NPPF confirms that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The Council's Highways Development Control team have been consulted on the application and initially raised a number of queries regarding the quantum of development and the parking levels to be provided. However subsequent to the submission of revised and additional information the Highways Development Control team confirmed that the revised site plan (Ref: 706 - 202A) now demonstrates the level of parking to be provided and the proposed use class for each of the nine units and this addresses the initial concerns raised.

However the plan also shows that Units 2 & 3 are to share a gated service area, as are Units 6, 7 & 8. The Highways Development Control team have confirmed that, whilst access arrangements will have to be agreed between the unit occupiers, they would not wish to see any servicing taking place off the main spine road from the front of the units in the event that the gates are closed or service areas inaccessible. Therefore any servicing doors for HGV's to the front of the units i.e. those facing the main spine road should be removed unless a further turning area is to be provided or gating arrangements are amended.

This remaining matter of concern does need to be addressed; however it is considered to be capable of resolution through the approval of details reserved by planning condition. Therefore, subject to a condition reserving approval of gating arrangement, it is considered that there is no basis to conclude that the proposed development would result in unacceptable highway impacts, or that any substantive conflict exists with the provisions of NPPF paragraph 32 or Core Strategy Policies TR1 and TR2.

In relation to Air Quality impacts it should be noted that the proposed development will generate substantial additional HGV traffic (up to an additional 30 vehicle trips through Beechcliffe roundabout and up to 78 vehicle trips through Bradford Road roundabout in the morning peak hour) which has the potential to worsen air quality impacts for the District. Core Strategy Policy EN8(A), supported by the Council's Low Emissions Strategy, sets out the framework for assessing development proposals in relation to Air Quality matters and identifies the measures which are required to mitigate adverse air quality impacts, including through low emissions travel plans, electric vehicle charging, low emission fleets and emissions damage cost calculation/ offsetting.

Although the application does include a Transport Assessment and Travel Plan framework these documents do not adequately quantify air quality impacts or provide for commensurate measures to off-set or mitigate the adverse air quality and greenhouse gas emissions impacts of the development. An Air Quality Assessment has also now been submitted which includes an assessment of the air quality impacts of the development and concludes that these will not be significant, subject to mitigation. This document has subsequently been revised as a result of liaison and engagement with the Council's Air Quality team.

The Council's Environmental Health Air Quality team have advised that the latest version of the air quality assessment indicates no new exceedances of the legal objectives for air pollution; however the development does cause some increases in concentrations in areas which were already exceeding the legal limits for air pollution. The largest magnitude of change being an increase of 0.9ug/m<sup>3</sup> at the Rhlystone Road residential receptor. This is a moderate change and is a highly undesirable consequence of the proposal in air quality terms.

Environmental Health have further advised that the air quality damage cost of the development (costs which mainly relate to the health impact) have been calculated by the applicant's consultants at £602,760.70. The applicant has indicated that they do not wish to undertake some of our suggested mitigation (which was to limit the use of fleet to a Euro VI standard, meaning only the cleanest vehicles could access the site). In light of this a

comprehensive air quality mitigation strategy must be provided in line with the damage costs calculated. Conditioning of a comprehensive and quantified air quality mitigation strategy will be essential to avoid detrimental air quality impacts associated with the proposal.

The applicant has indicated that they object to the conditioning of a comprehensive and quantified air quality mitigation strategy. It is therefore considered that the planning application remains contrary to Core Strategy Policy EN8(A) as the proposals does not incorporate adequate measures to mitigate or offset the development's emissions and impacts, in accordance with the Low Emission Strategy for Bradford and associated guidance documents, the development will not deliver a positive impact on air quality in the district in areas where air quality is a matter of concern and the development is likely to exacerbate air quality beyond acceptable levels.

**7) Community Safety Implications:**

Adopted Core Strategy Policy DS5 states that development proposals should be designed to ensure a safe and secure environment and reduce the opportunities for crime. In this instance, subject to appropriate access control, boundary treatments, CCTV and lighting provisions being implemented, it is not considered that there are grounds to conclude that the proposed development would create an unsafe or insecure environment or increase opportunities for crime, in accordance with adopted Core Strategy Policy DS5.

**8) Equality Act 2010, Section 149:**

In writing this report due regard has been taken of the need to eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between different groups and foster good relations between different groups, in accordance with the duty placed upon Local Authorities by Section 149 of the Equality Act 2010.

The context of the site, the development scheme proposed and the representations which have been made have been reviewed to identify the potential for the determination of this application to disadvantage any individuals or groups of people with characteristics protected under the Equality Act 2010. The outcome of this review is that there is not considered to be any sound basis to conclude that either refusing or approving planning permission would be likely to lead to disproportionate impacts on any groups of people or individuals who possess protected characteristics.

**Reasons for Refusing Planning Permission:**

- 1) The proposal is for inappropriate development within the Green Belt. The economic benefits which may result from the development are not considered to counterbalance the harm the development would cause to the Green Belt, either when considered in isolation or in combination with the other harm the development would cause. The proposal is contrary to saved policy GB1 of the replacement Unitary Development Plan and Section 9 of the National Planning Policy Framework.
- 2) The proposal is for development within the functional floodplain which is not essential infrastructure and is not a water compatible use. Neither the sequential test nor the exceptions test are passed. The proposal is contrary to Core Strategy policy EN7 and Section 10 of the National Planning Policy Framework.

- 3) The development would unacceptably harm the character of the local landscape contrary to Core Strategy Policy EN4.
- 4) The development would result in the destruction of an Ox-bow wetland, which is designated as a locally important nature conservation site, and contains insufficient information to demonstrate that the development would not adversely affect the South Pennine Moors SPA through loss of supporting habitat, contrary to Core Strategy Policies SC8 and EN2.
- 5) The proposals do not incorporate adequate measures to mitigate or offset the development's emissions and impacts, in accordance with the Low Emission Strategy for Bradford and associated guidance documents, the development will not deliver a positive impact on air quality in the district in areas where air quality is a matter of concern and the development is likely to exacerbate air quality beyond acceptable levels contrary to Core Strategy Policy EN8(A).