

## Agenda for a meeting of the Regulatory and Appeals Committee to be held on Thursday, 24 March 2022 at 10.00 am in the Council Chamber

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### Members of the Committee – Councillors

LABOUR	CONSERVATIVE	GREEN
Warburton Wainwright Lee Shafiq	Ali Brown	Edwards

### Alternates:

LABOUR	CONSERVATIVE	GREEN
Hussain Lal Salam Alipoor	K Green Sullivan	Love

### 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 Council Chamber on the day of the meeting.
  - Anyone wishing to speak to any of the business items on the agenda either as a Ward Councillor, applicant/agent, in support of or objecting to an application must register to speak by emailing the Governance Officer [yusuf.patel@bradford.gov.uk](mailto:yusuf.patel@bradford.gov.uk) by midday on Tuesday 22 March 2022. Please provide a telephone contact number, together with the relevant application details and explaining who will be speaking. They will then be advised on how you can participate in the meeting. If you have not registered you may not be able to speak.
  - If anyone wishes to submit any accompanying photographs/plans they should not exceed four and must also be submitted in writing by midday on Tuesday 22 March 2022 to the following Governance Officer: [yusuf.patel@bradford.gov.uk](mailto:yusuf.patel@bradford.gov.uk)
  - Please note that any representations will be allowed 5 minutes only and this will have to be shared if there is more than a single speaker.
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### From:

Parveen Akhtar  
City Solicitor  
Agenda Contact: Yusuf Patel  
Phone: 07970 411923  
E-Mail: [yusuf.patel@bradford.gov.uk](mailto:yusuf.patel@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. MINUTES**

**Recommended –**

**That the minutes of the meeting held on 16 December 2021 be signed as a correct record.**

(Yusuf Patel – 07970 411923)

#### 4. 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.

(Yusuf Patel – 07970 411923)

### B. BUSINESS ITEMS

#### 5. MEMBERSHIP OF SUB-COMMITTEES

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

(Yusuf Patel – 07970 411923)

#### 6. EXTENSION FOR FURTHER 3 YEARS OF PUBLIC SPACE PROTECTION ORDER FOR PARTS OF BRADFORD DISTRICT

1 - 14

The Strategic Director Place will submit a report (**Document “R”**) which outlines the proposals and seeks approval to begin the required public consultation exercise to extend a Public Space Protection Order for defined areas within Bradford District relating to antisocial behaviour arising from lighting fires and barbecues (and other materials) on moorland sites and subsequent risk of wildfire. The current PSPO expires on 30th June 2022.

##### **Recommended –**

- (1) That the Strategic Director, Place be authorised to undertake the required (minimum 6 week) consultation exercise to extend a Public Space Protection Order for Restricted Areas within Bradford District.**
- (2) That further to the completion of the necessary consultation process, the proposed Order be submitted to this Committee for approval or, alternatively, if there are no significant objections arising from the consultation.**
- (3) That further to the completion of the necessary consultation process, the extension of the proposed Order be approved under delegated powers by the Strategic Director, Place.**

(Danny Jackson - 01274 431230)

7. **LAND OFF MOSS CARR ROAD LONG LEE KEIGHLEY -  
19/04151/MAO**

15 - 34

The Assistant Director (Planning, Transportation & Highways) will submit a report (**Document “S”**) which sets out an outline application for residential development of land for up to 103 dwellings requesting consideration of access, land off Moss Carr Road, Long Lee, Keighley.

**Recommended –**

**That the application be approved subject to the completion of the Section 106 and conditions set out in Document “S”.**

(Hannah Lucitt – 07811503622)



## **Report of the Strategic Director Place to the meeting of Regulatory and Appeals Committee to be held on 24<sup>th</sup> March 2022**

**R**

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### **Subject:**

**Extension for further 3 years of Public Space Protection Order for parts of Bradford District relating to antisocial behaviour arising from lighting fires and barbecues on moorland sites and subsequent risk of wildfire**

### **Summary statement:**

**This report outlines the proposals and seeks approval to begin the required public consultation exercise to extend a Public Space Protection Order for defined areas within Bradford District relating to antisocial behaviour arising from lighting fires and barbecues (and other materials) on moorland sites and subsequent risk of wildfire. The current PSPO expires on 30<sup>th</sup> June 2022.**

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Jason Longhurst  
Strategic Director  
Place

**Portfolio: Regeneration, Planning and  
Transport**

Report Contact: Danny Jackson,  
Countryside and Rights of Way Manager  
Phone: (01274) 431230  
E-mail: [danny.jackson@bradford.gov.uk](mailto:danny.jackson@bradford.gov.uk)

**Overview & Scrutiny Area: Regeneration  
and Environment**

## **1. SUMMARY**

1.1 This report outlines proposals and seeks approval to begin the required public consultation exercise to extend the 2019 Public Space Protection Order ('PSPO') for a further 3 years, covering parts of Bradford District. The PSPO relates to antisocial behaviour arising from lighting fires and barbecues (and other materials) on moorland sites and subsequent risk of wildfire.

## **2. BACKGROUND**

2.1 In March 2014 the Government enacted new powers contained in the Anti-Social Behaviour, Crime and Policing Act 2014 (later referred to as 'the Act') relating to tackling anti-social behaviour including the making by local authorities of PSPOs which can prohibit certain types of antisocial behaviour and make breaches of such subject to fixed penalties and prosecution before the magistrates court subject to a fine not exceeding £2000.00.

2.2 These powers were used in May 2019 to implement a PSPO prohibiting barbecues, campfires, fireworks and other flammable materials from moorland areas within the Bradford District. The PSPO lasts for 3 years, which expires on 30<sup>th</sup> June 2022, and the legislation allows for renewal (or extension), subject to further consultation and approval.

2.3 Bradford Council would like to extend the PSPO relating to defined areas of publicly accessible land for a further 3 years (to June 2025), with the purpose of reducing the risk of wildfire by prohibiting the use of barbecues, lighting of fires, fireworks and Chinese lanterns on such land, with the intentions of authorising West Yorkshire Police, with delegated powers to enforce any breaches of PSPO along with designated Council Officers.

2.4 Wildfire is a consistent risk on the District's open spaces, particularly moorland sites where public access is allowed. A significant portion of the District's moorland areas are subject to rights of access, either because of their designation as common land, or as "open country" and therefore subject to a right to roam afforded by the Countryside and Rights of Way Act 2000. Members of the public rightly visit these areas for recreation purposes but often this includes lighting camp fires or portable barbecues.

2.5 Evidence used to support the implementation of the original PSPO in 2019 shows that a number of incidences of wildfire had been recorded in the Bradford District – many of which will have been the result of careless or negligent behaviour in respect of fires and barbecues, rather than deliberate arson.

2.6 Since the PSPO was enacted in the Bradford District, there have been, thankfully, no serious wildfire incidents, although other parts of West Yorkshire have suffered such incidents. Notable amongst these was the large fire on Marsden Moor last year which was the result of a firework. Cost of damage was estimated at close to £0.5 million. The perpetrator has been subsequently jailed.

2.7 The Chief Fire Officer of West Yorkshire Fire and Rescue Service has written to the Council's Chief Executive urging that the PSPO be extended. (Appendix 1).

2.8 Major landowners of other moorland areas within the Bradford District (e.g. Yorkshire Water) support this extension and it is proposed that these are included in the same "Restricted Areas" to which the extended PSPO would apply. The statutory advisory body on countryside access issues, the Bradford Local Access Forum, also support this extension.

### **3. OTHER CONSIDERATIONS**

3.1 Local Authorities have the power to make PSPO if satisfied on reasonable grounds that two conditions are met.

The first condition is that:

- a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality, or
- b) It is likely that activities will be carried on in a public place within that area and those they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—

- a) is, or is likely to be, of a persistent or continuing nature,
- b) is, or is likely to be, such as to make the activities unreasonable, and Justifies the restrictions imposed by the notice. Activities can include things that a person or a group does, have done or should do in order to reduce the detrimental effect).

3.2 Public Space Protection Order is an order that identifies the space to which it applies and can make requirements, or prohibitions within the area. This means that the local authority can, require people to do specific things in a particular area or not to do specific things in a particular area. The local authority can grant the prohibitions/requirements where it believes that they are reasonable in order to prevent or reduce the detrimental impact. The order can be made so as to apply to specific people within an area, or to everybody within that area. It can also apply at all times, or within specified times and equally to all circumstances, or specific circumstances. The order can apply for a maximum of three years upon which the process of reviews and consultation must be repeated to ensure the issues is still occurring and the order is having the required effect. Thereafter it can be extended for a further three years and, upon the reviews and consultation taking place, can be extended more than once for further periods of three years.

3.3 The Act is not overly prescriptive about the necessary process required for application of these powers. It has, therefore, been necessary to design a process that is considered to be appropriate and legally robust.

- 3.4 The recommendation following the consultation period is to renew the PSPO with the terms as set out below namely the prohibition of.
- the lighting of fires; barbecues; Chinese lanterns; fireworks or using any article/object which causes a naked flame and which poses a risk of fire.
  - This to apply to the Restricted Areas (as defined by the map attached as shown on the original PSPO – see Appendix 2)
- 3.5 The effect of the Order would be that a person or persons are required to extinguish and surrender anything in their possession which a constable or authorised person has reasonable suspicion to be an article that has been used OR is likely to be used in conjunction with the prohibited activities referred to in this Order.
- 3.6 Any person who fails without reasonable excuse to comply with a requirement imposed on him by this Order or does anything that he is prohibited from doing by this Order commits an offence under section 67 of the Act and is liable on summary conviction to a fine not exceeding level 3 on the standard scale or may be issued with a fixed penalty notice requiring payment of a sum not exceeding £100.
- 3.7 The primary enforcement role falls to the Council, with support from Police in certain circumstances (e.g. during events, when conditions are exceptional etc.). West Yorkshire Fire and Rescue Service have undertaken to attend incidents, where resources are available and advise on the requirements of the PSPO.
- 3.8 Evidence is available to support the need for the extension of the Councils 2019 PSPO in the identified area. Evidence for the 2019 order was gathered from:
- (i) Records of wildfire on Council land and other areas within Bradford
  - (ii) Report from Moors For The Future incorporating and Fire and Rescue Services data (“Spatial pattern of wildfire distribution on the moorlands of the South Pennines” August 2009)
  - (iii) Ongoing threat of wildfire with longer, drier summers.
- 3.9 Since the enactment of the initial PSPO in 2019, the Council has worked closely with West Yorkshire Fire and Rescue Service in spreading the message about the dangers of wildfire. This has been under the “Be Moor Aware” campaign which has been adopted across West Yorkshire with consistent messages, on-site signage and specific joint awareness raising events, two of which have been held at the Cow and Calf rocks on Ilkley Moor.
- 3.10 Whilst the “Be Moor Aware” continues to be a valuable tool in spreading these messages, the PSPO prohibiting bbq’s etc is regarded as a vital element in safeguarding our moorlands from wildfire. The extension of the PSPO is fully supported by West Yorkshire Fire and Rescue Service.



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

The costs of consultation on the extension of the PSPO will be met from within existing revenue resources. Future enforcement effort (if the PSPO is approved) will also come from within existing resources, with assistance from partner agencies but will inevitably add to existing workload. Costs of signage as part of the Be Moor Aware campaign will be met from existing Service budgets.

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

There are no risk management or governance issues apparent.

#### **6. LEGAL APPRAISAL**

6.1 The Act contains the provisions for the renewal or extension of a PSPO.

6.2 Under section 59 of the Anti Social Behaviour Crime Policing Act 2014 local authorities have the power to make PSPO if satisfied on reasonable grounds that two conditions are met?

(i) The first condition is that—

a) activities carried on in a public place within the Authority's area have had a detrimental effect on the quality of life of those in the locality, or

b) It is likely that activities will be carried on in a public place within that area and those they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—

is, or is likely to be, of a persistent or continuing nature,

a) is, or is likely to be, such as to make the activities unreasonable, and

b) Justifies the restrictions imposed by the notice.

6.3 Activities can include things that a person or a group does, have done or should do (in order to reduce the detrimental effect). As with any new legislation of its type, this is untested ground and the legislation will be further defined in years to come by a process of appeals and High Court rulings. Any legal challenge presents a risk to the Authority. The legislation supporting implementation of the new Orders states that "interested persons" may challenge the validity of any order in the High Courts. This means that the Council could face a challenge against its ability to implement the Order. An application of this nature must be made within six weeks; beginning on the day the Order is made or varied. There are three grounds upon which a challenge could be made, these are:

- (i) That the local authority did not have the power to make the order or variation, or to include particular prohibitions or requirements imposed by the order (or by the order as varied)
- (ii) That a requirement under this element of the legislation not complied with in relation to the order or variation.
- (iii) The High Court would have the power to quash, amend or uphold the order.

#### 6.4 Section 60: Duration of orders

(1) A public spaces protection order may not have effect for a period of more than 3 years, unless extended under this section.

(2) Before the time when a public spaces protection order is due to expire, the local authority that made the order may extend the period for which it has effect if satisfied on reasonable grounds that doing so is necessary to prevent—

(a) occurrence or recurrence after that time of the activities identified in the order, or

(b) an increase in the frequency or seriousness of those activities after that time.

(3) An extension under this section—

(a) may not be for a period of more than 3 years;

(b) must be published in accordance with regulations made by the Secretary of State.

(4) A public spaces protection order may be extended under this section more than once.

#### 6.5 Section 67 creates an offence of failing to comply with the order

(1) It is an offence for a person without reasonable excuse—

(a) to do anything that the person is prohibited from doing by a public space protection order, or

(b) To fail to comply with a requirement to which the person is subject under a public spaces protection order.

(2) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person does not commit an offence under this section by failing to comply with a prohibition or requirement that the local authority did not have power to include in the public spaces protection order.

6.6 The penalty for breaches of a PSPO relate to fixed penalty notices and fines alone, which may lead to significant levels of non-payment. The suite of new powers available however would allow officers to utilise a range of measures for those identified as persistently breaching the order, for example:

- (i) Community Protection Notices could be issued against individuals
- (ii) An Anti-Social Behaviour Injunction (ASBI) could be sought against individuals, which carries tougher sanctions and ultimately imprisonment
- (iii) A Criminal Behaviour Order could be sought.
- (iv) A Breach of the PSPO is an offence and upon conviction, individuals could be made subject to a Criminal Behaviour Order. This carries

both tougher sanctions, along with the ability to implement positive conditions requiring support for substance misuse issues.

6.7 In order to implement a PSPO the procedure under section 72 of the Act must be followed. Section 72 states

**Convention rights, consultation, publicity and notification**

(1) A local authority, in deciding—

(a) whether to make a public spaces protection order (under section 59) and if so what it should include,

(b) whether to extend the period for which a public spaces protection order has effect (under section 60) and if so for how long,

(c) whether to vary a public spaces protection order (under section 61) and if so how, or

(d) whether to discharge a public spaces protection order (under section 61),

must have particular regard to the rights of freedom of expression and freedom of assembly set out

In articles 10 and 11 of the Convention.

(2) In subsection (1) “Convention” has the meaning given by section 21(1) of the Human Rights Act 1998.

(3) A local authority must carry out the necessary consultation and the necessary publicity, and the necessary notification (if any), before—

(a) making a public spaces protection order,

(b) extending the period for which a public spaces protection order has effect, or

(c) Varying or discharging a public spaces protection order.

(4) In subsection (3)—

“the necessary consultation” means consulting with—

(a) the chief officer of police, and the local policing body, for the police area that includes the restricted area;

(b) whatever community representatives the local authority thinks it appropriate to consult;

(c) the owner or occupier of land within the restricted area;

“the necessary publicity” means—

(a) in the case of a proposed order or variation, publishing the text of it;

(b) in the case of a proposed extension or discharge, publicising the proposal;

“the necessary notification” means notifying the following authorities of the proposed order, extension, variation or discharge—

(a) the parish council or community council (if any) for the area that includes the restricted area;

(b) in the case of a public spaces protection order made or to be made by a district Council in England, the county council (if any) for the area that includes the restricted area.

(5) The requirement to consult with the owner or occupier of land within the restricted area—

(a) does not apply to land that is owned and occupied by the local authority;

(b) Applies only if, or to the extent that, it is reasonably practicable to consult the owner or occupier of the land.

(6) In the case of a person or body designated under section 71, the necessary consultation also includes consultation with the local authority

which (ignoring subsection (2) of that section) is the authority for the area that includes the restricted area.

(7) In relation to a variation of a public spaces protection order that would increase the restricted area, the restricted area for the purposes of this section is the increased area.

6.8 Guidance relating to publication of PSPO's is set out in the Anti-Social Behaviour Crime and Policing Act 2014 (Publication of PSPO's) Regulations 2014. There is also the July 2014 Home office guidance which will assist in the legal formalities in creating an order.

6.9 In any event a PSPO last for 3 years only and requires review every three years which is an expensive and time consuming process. Such a review and consultation process will in any event be required every 3 years to keep an existing PSPO in force.

6.10 The local authority must consult with the following groups to before seeking to make (or extend) a PSPO.

- Chief Officer of Police for the local area
- Police and Crime Commissioner
- Land Owners in the area
- Any Community Representatives the local authority feels appropriate.
- Member of Parliament

6.11 The 2014 Act requires that landowners within the area are consulted; due to the vast population of Bradford it makes direct individual contact unviable but key affected landowners will be consulted.

## **7. OTHER IMPLICATIONS**

None

### **7.1 EQUALITY & DIVERSITY**

Generally it is understood anti-social behaviour has a disproportionate affect on those most vulnerable in our communities.

### **7.2 SUSTAINABILITY IMPLICATIONS**

Wildfire poses a risk to people and property. It also destroys biodiversity and amenity of those sites affected. The more hidden impacts include release of carbon (thus increasing greenhouse gas emissions), air pollution (with associated public health risks), water pollution (in areas used for water catchment, ash and other material washed into water supply is difficult and expensive to remove), flood mitigation (where surface vegetation is burnt off, run-off is quicker and so the risk of flooding below the moors is increased). The cost and resource implications to the Council, Fire and Rescue Services and Police of fighting wildfire are significant. Thus any

measures which assist in reducing wildfire risk will have positive sustainability implications.

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

See above.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

Wildfire poses a risk to people, whether visitors to the area or residents, and property. During the recent fire on Ilkley Moor, the fire came within 200m of housing and consideration was given to evacuating those residents in closest proximity. Given that this fire was possibly started by a portable barbecue or camp fire, the Community Safety implications will be reduced by the introduction of this PSPO.

### **7.5 HUMAN RIGHTS ACT**

The consultation with the public will address the Human Rights Act 1998 implications.

### **7.6 TRADE UNION**

There are no trade union implications apparent

### **7.7 WARD IMPLICATIONS**

Wildfire is a district wide issue, although it is more prevalent in some wards. Ward Councillors will be invited to comment on the proposals as part of the statutory consultation process.

### **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS**

If obtained the PSPO will relate to defined "Restricted Areas" as mapped in Appendix 1

### **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

### **7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

## **8. NOT FOR PUBLICATION DOCUMENTS**

There are no items that are not for publication

## **9. OPTIONS**

- Authorise the Strategic Director, Place to undertake the required consultation exercise in pursuance of the extension, for a further 3

years, of the PSPO to prohibit fires, barbecues, Fireworks and Chinese lanterns on identified areas.

- Ask the Strategic Director, Place to identify alternative options for regulation of such items

## 10. RECOMMENDATIONS

10.1 That the Strategic Director, Place be authorised to undertake the required (minimum 6 week) consultation exercise to extend a Public Space Protection Order for Restricted Areas within Bradford District.

10.2 That further to the completion of the necessary consultation process, the proposed Order be submitted to this Committee for approval or, alternatively, if there are no significant objections arising from the consultation,

- 10.3 That further to the completion of the necessary consultation process, the extension of the proposed Order be approved under delegated powers by the Strategic Director, Place.

## 11. APPENDICES

**Appendix 1:** Letter to Bradford Council Chief Executive from West Yorkshire Chief Fire Officer requesting that the Council extends the PSPO banning use of barbecues.

**Appendix 2:** Original PSPO including map showing extent of PSPO (ie. restricted areas)

## 12. BACKGROUND DOCUMENTS

- None required



West Yorkshire  
Fire & Rescue Service



**John Roberts**  
**Chief Fire Officer/Chief Executive**  
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07557 006179  
john.roberts@westyorksfire.gov.uk

Kersten England CBE  
Chief Executive  
City of Bradford Metropolitan District Council  
Centenary Square  
Bradford  
BD1 1HY

04 February 2022

Dear Kersten

**Public Space Protection Order – Bradford moorland areas**

It has come to my attention that the Public Space Protection Order (PSPO) which prohibits the use of barbecues, fires, Chinese lanterns, fireworks, and anything else which could cause a fire on specified areas of publicly accessible moorland within the Bradford District is due to expire in the summer of 2022.

The purpose of my letter is to ask that the BMDC Regulatory and Appeals Committee renews the order when it is considered at their March 2022 meeting.

Whilst, fortunately, we have not seen a repeat of the Easter 2019 fire on Ilkley Moor which had such devastating consequences, the risk remains of future similar fires. It is, of course, worthy of note that pandemic related lockdowns have had some impact on the use of outdoor spaces in the last two years.

The undeniable impact of climate change has resulted in recent summers being both hot and dry, conditions which are conducive to both high risk use of BBQ and fire in outdoor spaces, as well as being the exact conditions which lead to rapid and uncontrollable spread of fire. You have only to look across to Kirklees to see the consequences of the significant wildfire on Marsden Moor in April 2021 which recently resulted in the handing down of a 12-month prison sentence to an individual who set off a firework which led to a mile long fire front which required on excess of 100 firefighters to control and extinguish.

PSPO's are not, in themselves, the answer to the problem, but they are an integral part of it. I readily accept the need for continuing publicity such as the '#BeMoorAware' campaign, and the engagement of local 'friends of' groups to act as our joint eyes and ears on the ground. We are also beginning to see a more responsible approach to the sale of portable BBQs in some high-risk areas from some retailers, and I hope that this approach will become more popular.

Recognising the difficulties in patrolling such extended and remote areas, West Yorkshire Fire & Rescue Service has also committed to responding to calls from the public in respect of 'controlled' BBQs and fires in areas covered by PSPOs when crews are not otherwise engaged in emergency activities. We will adopt an approach of education, and mutually agreed extinguishing when possible.

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# From the 1st July 2019

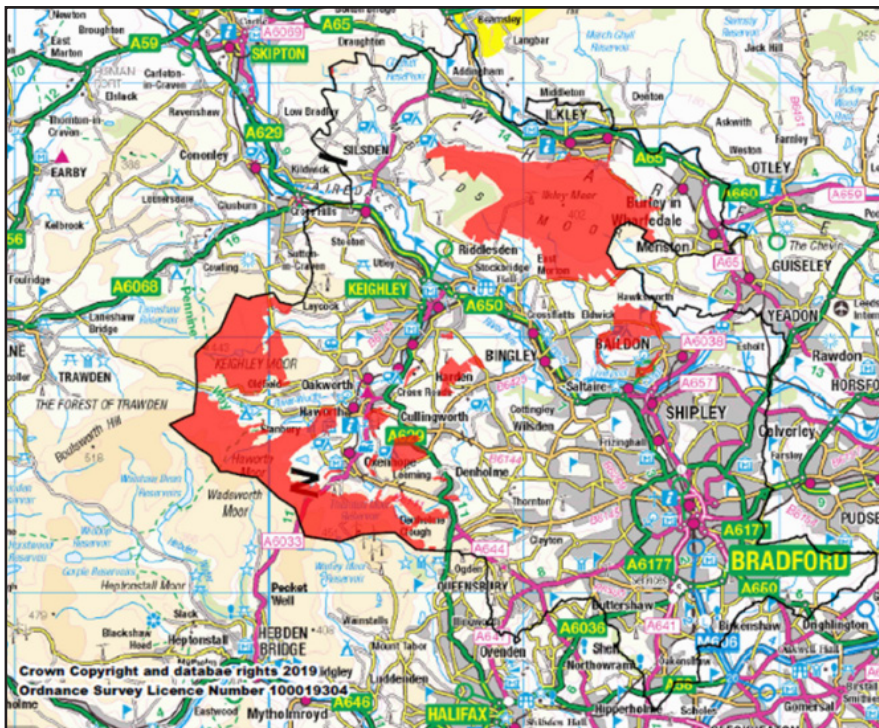
The City of Bradford Metropolitan District Council's **Public Space Protection Order (control of activities which may cause fires /wildfires) No 2/2019** prohibits the use within the restricted area of:

## Barbecues, Fires, Fireworks and Lanterns

(or any article/object which causes a naked flame).

A person must not use such items in the restricted area (see map below).

These restrictions will not apply to private property within the defined area,  
nor legitimate land management activity



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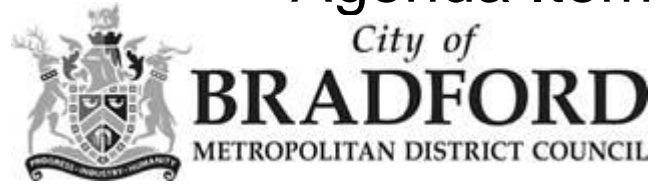
[www.bradford.gov.uk/environment/countryside-and-rights-of-way/reducing-the-risk-of-moorland-fires/](http://www.bradford.gov.uk/environment/countryside-and-rights-of-way/reducing-the-risk-of-moorland-fires/)

If an authorised Council Officer, police constable or authorised police community support officer reasonably believes a person is using or intends to use such items and having informed the person that it is an offence, the officer may ask them to stop and extinguish and/or surrender the item and the officer may later dispose of it.

The authorised officer may also issue a fixed penalty notice of £100, which if unpaid may lead to prosecution in the Magistrates Court and upon conviction to a fine of up to £2500.



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## **Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 24 March 2022**

**S**

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### **Subject:**

Outline application for residential development of land for up to 103 dwellings requesting consideration of access, land off Moss Carr Road, Long Lee, Keighley.

### **Summary statement:**

A full assessment of the application, relevant planning policies and material planning considerations are included in the report at Appendix 1.

The application site was formerly allocated as Safeguarded Land, under policy UR5, proposal area K/UR5.19, in the RUDP. However, the principal policy, Policy UR5 was not saved as part of the RUDP and sites previously allocated are no longer allocated as Safeguarded Land.

The principle of housing has been considered against the former Safeguarded Land allocation, highway and drainage issues. It is considered that the proposed residential development would be acceptable at this site, without prejudicing highway safety and addressing drainage matters. In addition, the proposal would increase the supply of housing, including affordable housing, within the District.

The application is recommended for approval subject to the completion of Section 106 Agreement to include the funding of highway improvements at Coney Lane bridge, Keighley, and conditions included in the report, Appendix 1.

Julian Jackson  
Assistant Director (Planning,  
Transportation & Highways)

**Portfolio:**  
**Change Programme, Housing, Planning and  
Transport**

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**Overview & Scrutiny Area:**  
**Regeneration and Economy**

## **1. SUMMARY**

The application is recommended for approval subject to the completion of a Section 106 and conditions included within the Technical Report, Appendix 1.

## **2. BACKGROUND**

The application is reported to Committee, following 84 objections being received.

## **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 the application is within the Council's powers as 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 characteristics 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, it is not considered there are any issues in this regard, relevant to this application.

### **7.2 SUSTAINABILITY IMPLICATIONS**

The application site is located c.2 km from Keighley centre, with various facilities and services provided in the town centre. It is not considered there would be any adverse implications on sustainability.

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

New development invariably results in the release of greenhouse gases associated with construction operations and the activities of the future users of the site. Consideration should be given as to the likely traffic levels associated with development. Consideration should also be given as to whether the location of the proposed development is such that sustainable modes of travel would be best facilitated and future greenhouse gas emissions associated with the activities of building users minimised. Electric vehicle charging points would be provided to each house within the proposed development.

### **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, 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 application as per the recommendation contained in Appendix 1, or refuse the application.

If the Committee decides that the application should be refused, the reason(s) for refusal would have to be given, based upon development plan policies or other material planning considerations.

#### **10. RECOMMENDATION**

This application is recommended for approval subject to completion of the Section 106 and conditions contained within the report.

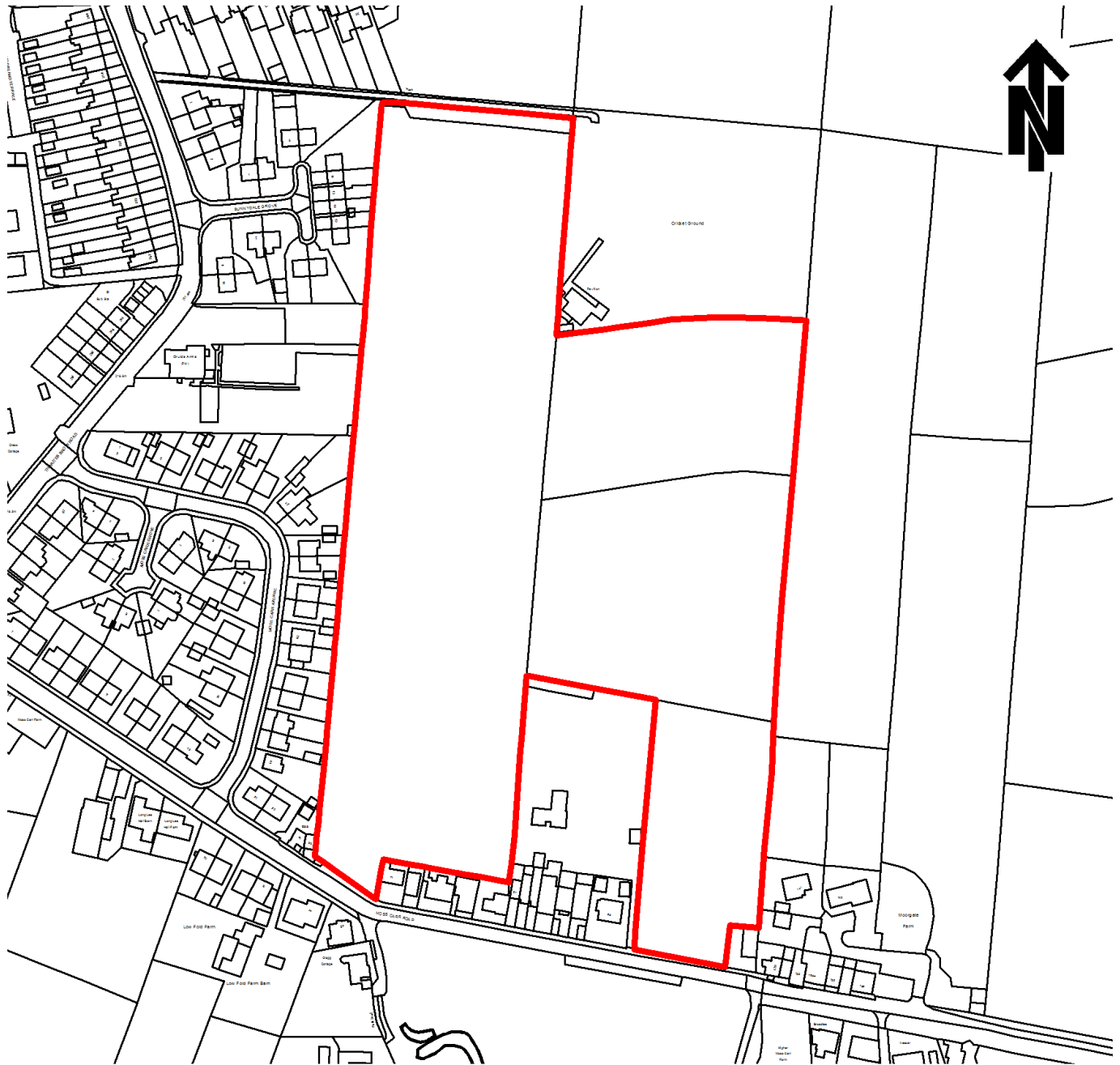
#### **11. APPENDICES**

Appendix 1 Technical report.

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

National Planning Policy Framework 2019  
Adopted Core Strategy 2017  
RUDP 2005

19/04151/MAO



1:2,500

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**Land Off Moss Carr Road  
Long Lee  
Keighley**

## **APPENDIX 1**

### **Ward:**

Keighley East

### **Recommendation:**

That the Committee grant outline planning permission subject to conditions and a Section 106 Agreement. The Assistant Director Planning, Transportation and Highways be authorised to issue the grant of planning permission upon the completion of the S106 Agreement.

### **Application No.**

19/04151/MAO

### **Type of application:**

Outline application for residential development of land requesting consideration of access at land off Moss Carr Road, Long Lee, Keighley.

### **Applicant:**

David Hill Land LLP

### **Agent:**

David Hill LLP

### **Site Description:**

The land was last in use as agricultural land and comprises a number of fields.

The site slopes from Moss Carr Road down into the site, with the north west corner of the site rising. There are a number of drystone walls enclosing the fields. Overhead electrical lines also cross the site.

A cricket pitch used by Long Lee Cricket Club is located to the north east of the site, agricultural land is located to the north and east and there are residential properties to the west and south of the site.

The application site is accessed from Moss Carr Road, to the south of the site.

### **Background:**

The application site was formerly allocated in the RUDP, as Safeguarded Land, identified as UR5.19 Moss Carr Road. Development for housing being an appropriate use for Safeguarded Land. However, this policy was not saved as part of the Core Strategy and the allocation no longer exists.

## **Relevant Site History:**

None

## **RUDP: Allocation**

None

## **Core Strategy:**

The current Development Plan for the area is comprised of the Replacement Unitary Development Plan (RUDP) (2005) and the adopted Core Strategy (2017).

The emerging Local Plan is still at an early stage of preparation. Consultation on the Core Strategy Partial Review 'Preferred Options' was undertaken in July 2019. The council has recently consulted on The Draft Bradford District Local Plan – Preferred Options (Regulation 18) and supporting documents from 8 February to 24 March 2021. These documents continue to be afforded "very limited weight" given their stage of preparation. In this context it is considered that full weight should continue to be afforded to the policies of the adopted Core Strategy (2017) and the RUDP (2005) in accordance with the degree of conformity with current national planning policy.

There are a number of Core Strategy Policies to be considered in the determination of the application.

P1- Presumption in Favour of Sustainable Development  
SC1- Overall Approach and Key Spatial Priorities  
SC4- Hierarchy of Settlements  
SC8- Protecting the South Pennine Moors and their Zone of Influence  
SC9- Making Great Places  
TR1- Travel Reduction and Modal Shift  
TR2- Parking Policy  
TR3- Public Transport, Cycling and Walking  
HO5- Density of Housing Schemes  
HO6- Maximising Use of Previously Developed Land  
HO8- Housing Mix  
HO11- Affordable Housing  
EN2- Biodiversity and Geodiversity  
EN4- Landscape  
EN5- Trees and Woodland  
EN7- Flood Risk  
EN8- Environmental Protection  
DS1- Achieving Good Design  
DS3- Urban Character  
DS4- Streets and Movement  
DS5- Safe and Inclusive Places  
ID3- Developer Contributions

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

Local planning authorities are required to approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and



environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development, where possible

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

Planning policies and decisions should make more intensive use of existing land and buildings, especially where it would help to meet housing need.

Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

### **Publicity and Representations:**

The application was advertised through site notices and in the local press. There have been 93 letters of objection and a petition of 25 signatories.

A Ward Councillor has objected on the following grounds -.

- The proposed access road is heavily used by farm vehicles, residents' personal vehicles and business vehicles on Moss Carr Road. It is a single-vehicle road and to add 200 vehicles on to it would cause chaos, particularly as residents park there too.
- Permission has been requested for the crag to be made a village green and a decision on this is still pending.
- The proposed access road became like a river on Sunday during the yellow weather warning. Homes on Moss Carr Road were almost flooded and the drains/gullies throughout Long Lee could not cope with the volume of water run-off and surface water. Vehicles could not pass through, and paving over fields will only add to the problem.
- I have ongoing concerns, as senior planning officers are aware, about the capacity of the road and rail bridges and the dog-leg shape of the road at the bottom of Park Lane (which was flooded and closed on Sunday). See the planning application for the large development on Long Lee Lane and the advisory note that was added as a result of my concerns being raised.

- The Government has asked for the number of homes being built in Keighley to be revised down. Already, Long Lee is hosting its fair share of new-build properties without taking into account the revisions.
- CIL, as we know, is nil. Long Lee is becoming the location of more and more houses, without the infrastructure to back it up in terms of shops, amenities, green spaces and play areas. Green spaces would shrink further were this application to be approved. The state of the nation's mental health is declining - taking away green space is not conducive to a happy village.
- More homes are being built in Long Lee yet public transport provision is being cut (the hourly bus service has recently been reduced to half-hourly, causing misery for many residents). The people who need to use the bus cannot walk to (and especially back from) the town centre - if the new houses are aimed at families they will therefore likely be in cars, and young professionals are likely to be driving, too, as there is no employment in Long Lee due to there being few amenities. I would argue this is not the kind of village we want to create - particularly given the climate emergency and the poor route to town via Park Lane/Coney Lane mentioned previously.

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

Unsuitable access  
 Lack of pedestrian access  
 Drainage issues/flooding  
 Loss of wildlife  
 Lack of infrastructure/facilities  
 Overshadowing/overlooking  
 Loss of greenspace

### **Consultations:**

#### Keighley Town Council

Keighley Town Council recommends refusal due to overdevelopment and no infrastructure in place. Bradford MDC also stated there would be no proposed new builds in the area.

#### West Yorkshire Archaeology Advisory Service

The application site encompasses an area which may include archaeological remains related to ancient route ways, including the possible line of Roman Road 720 and a possibly later medieval route (West Yorkshire Historic Environment Record PRN 2712 and 5089). The Roman road is believed to follow the same line as an east to west foot path on the northern edge of the site and may extend in to it.

The present agricultural landscape of many small rectangular fields, designed for stock management, is illustrated on the First Edition Ordnance Survey Map of the area (Yorkshire Sheet 200, surveyed 1847-48 published 1852). This enclosure and improvement is likely to date to around 1800. However, Curren Laithe Farm, which is adjacent to the development site, dates to the 16th century with a medieval antecedent named Leach Farm dating from the 1200s also suspected in the vicinity. Any evidence of earlier agricultural settlements or practices would be of considerable interest.

Long Lee Coal Pits are recorded as lying on the western boundary of the development in the 1840s. It is currently not known if these coal workings extended east and further into the site. Early coal workings can be associated with the growth of industry in the region and are of archaeological interest. Small scale workings on the edge of the recognised coal field, such as these, may preserve evidence lost in more intensively exploited mining areas.

The WYAAS recommends that the developer be required to provide the Planning Authority with an evaluation, based on appropriate analytical methods, of the full archaeological implications of the proposed development. We would further recommend that a planning decision be deferred, on the grounds that the planning authority requires further information in order to reach an informed decision, until the results of the evaluation have been received and assessed by WYAAS.

However, the above works can be secured by the attachment of a suitable condition in accordance with the NPPF para. 199 and within the Department of the Environment's Circular 11/95.

### Highways

The proposals involve up to 103 dwellings on a Greenfield site, which was allocated as 'safeguarded land' in the RUDP. The site is located in Long Lee over 2km from Keighley Town Centre.

The site is accessed from Moss Carr Road which is an adopted road providing access to a number of existing dwellings and agricultural land. Moss Carr Road forms a priority junction with Long Lee Lane, Thwaites Brow Road and Carlton Road, which provides access to the highway network. Moss Carr Road is relatively wide at the junction and this can be a problem for pedestrians crossing the road which is exacerbated by vehicles 'cutting the corner' when turning right from Long Lee Lane. Approximately 140m to the east from this junction, Moss Carr Avenue forms a priority junction with Moss Carr Road and a priority junction at its other end with Thwaites Brow Road thereby providing a through route. To the east of Moss Carr Avenue, Moss Carr Road becomes a cul-de-sac and is also relatively substandard with a narrower carriageway and footway to one side only. There is also a sharp bend approximately 70m from Moss Carr Avenue with poor forward visibility which is exacerbated by on street parking. The proposed site access is located around 200m east from Moss Carr Avenue and an emergency access located around 50m to the east which will also provide pedestrian and cycling access. In support of the proposed development the applicant has submitted a Transport Assessment (TA) and a Travel Plan (TP).

The TA gives traffic generation information based on the nationally accepted TRICS database. The development proposal is predicted to generate some 59 two-way vehicle movements during the AM peak hour, and 60 during the PM peak hour. This is based on average trip rates which assumes that public transport accessibility in the local area is good. In my view public transport accessibility is poor with only one bus per hour on Long Lee Lane and therefore 85th percentile trip rates would have provided a more robust assessment. Notwithstanding this, I consider that the higher trip rates compared to the average trip rates for this scale of development would be unlikely to have a significantly increased impact on the operation of nearby junctions or lead to an increase in congestion or delay on the surrounding highway network subject to mitigation measures as discussed below.

The applicant has agreed to provide the following mitigation measures to address the highway issues around the site:

1. Widening of Moss Carr Road across the site frontage and provision of a new footway to the south side which would extend close to the bend to the west.
2. Provision of a splitter island and dropped footway crossings on Moss Carr Road at its junction with Long Lee Lane/Thwaites Brow Road/Carlton Road.
3. Provision of dropped crossings on Long Lee Lane to provide access to/from the northern bus stop.

Whilst the above access improvements would normally be sufficient to support a residential development of this scale in highway terms, the long standing highway constraints at Coney Lane Bridge have still not been resolved. Council Members have raised concerns too regarding additional development in Long Lee without improvements at Coney Lane Bridge.

The applicant has carried out capacity assessment of the Park Lane/Longcroft/Coney Lane junction and the respective junctions at Worth Way which demonstrates that the scale of traffic that would be generated by the proposed development would not have a material impact within the vicinity of Coney Lane Bridge and that any impact would not be severe enough to warrant refusal, in accordance with paragraph 109 of the NPPF. The assessment also demonstrates that there is no significant cumulative impact in capacity terms of this proposal and the existing residential development approvals.

The main issue raised by Committee and objectors relates to the capacity of the section of Park Lane passing under the rail bridge and over the river bridge which is impacted due to the geometrical layout, width of carriageway and substandard pedestrian facilities. The road layout necessitates larger vehicles, to and from Longcroft, to use the whole carriageway which can be intimidating not only for vehicles travelling in the opposite direction but also pedestrians. The applicant suggested that large vehicles could be banned from Longcroft but the rerouted traffic could cause problems at East Parade/Coney Lane and the presence of these heavy vehicles would still be intimidating for pedestrians on Park Lane. The movement of HGVs and buses on Park Lane/Coney Lane Bridge in conjunction with substandard pedestrian facilities discourages people living in Parkwood, Long Lee and Woodhouse from walking and cycling to and from the town centre. It's considered that unless development proposals in these areas make it more attractive to walk and cycle along this route then this conflicts with advice in NPPF Paragraph 110 which says give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas.

The situation at Coney Lane Bridge could be likely to worsen in the future with new residential site allocations in the Local Plan. Although these sites are likely to be much smaller in scale than existing sites, the combined number of sites could double the number of dwellings. The recent approvals at Long Lee Lane and Redwood Close were accepted on balance to allow some contribution from this area towards the housing targets. But support of further development proposals in Long Lee and the surrounding area, without highway improvements at Coney Lane Bridge, would bring the Highway Authority into disrepute.

Following protracted discussions on the above issues, the applicant has agreed to fund highway improvements at Coney Lane Bridge. A total of £800,000 would be provided with a small amount (£25,000) to be paid up front to allow assessment and design of appropriate highway measures. In addition to this, the applicant will also fund the highway mitigation measures outlined above at cost through a S278 agreement.

The internal layout is subject to change as this is an outline application with all matters reserved except access. The internal highway layout should be designed in accordance with the Manual for Streets and the prevailing local guidance.

It is considered that adequate and safe access can be achieved to this site, subject to the mitigation measures, and the modest level of traffic likely to be generated by this development can be safely accommodated within the surrounding highway network. If the Council is minded to approve this planning application, then highway conditions should be included in the decision notice.

### Environmental Health (Pollution)

This is a minor development for the purpose of the West Yorkshire Low Emission Strategy (adopted December 2016) and the West Yorkshire Low Emission Planning Guidance.

Under the provisions of the LES planning guidance minor developments are required to provide Type 1 emission mitigation as follows:

#### Type 1 Mitigation

- Provision of electric vehicles charging facilities at the rates set out in the West Yorkshire Low Emission Planning Guidance.
- Adherence to the *London Best Practice / IAQM Guidance on the Control of Dust and Emissions from Construction and Demolition* during all demolition, site preparation and construction activities at the site.

In addition, some applications are required to submit an exposure assessment where the development has the potential to increase human exposure to poor air quality.

### Public Rights of Way

Proposals as submitted include provision of a footpath/cycleway to link with the existing footpath route. While I would have no objections to this provision as a footpath, any provision for cyclists would require the landowner of the existing footpath/track (to Thwaites Brow Road) to formally dedicate cycle use or to fund a cycle track conversion order. Provision of the footpath/cycleway link within the site should be provided to adoptable standards. We would though request that the site developer commits to complementing the works already carried out by the Cricket Club by carrying out further surface improvements to the existing footpath/track. Suggested improvements should include minor drainage works and surfacing with limestone to its junction with Thwaites Brow Road.

Provision of the footpath/cycleway route off Moss Carr Road is supported and again should be provided to adoptable standards.

### Lead Local Flood Authority

Further to our on-site, drainage investigations, the LLFA is satisfied that there is a culvert within the application site and that this runs towards the east of the site, continues off-site towards Curren Laithe Farm, where it discharges into a small pond. This culvert appears to be blocked at some points and this is impeding the natural drainage of the site and causing water to back-up and flood the applicants land.

The LLFA is satisfied that the applicant can expect the downstream landowners to remove any impediments to flow within the culvert, in order that the application site can be effectively drained. As such, the LLFA is satisfied that there is a viable means for the disposal of surface water drainage from the proposed development.

### Policy

No comments

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

Principle of development  
Housing Land Supply  
Density  
Highways constraint at Coney Lane bridge  
Drainage  
Affordable Housing

## **Appraisal:**

### Principle of development

The application site is part of a larger site, formerly allocated as Safeguarded Land in the RUDP, policy UR5 and identified as UR5.19, Moss Carr Road, a new greenfield site allocated for housing. Before development of the site is undertaken ecological and archaeological surveys are required. Access to the development would be dependent on highway constraints at Coney Lane Bridge being resolved.

However, Policy UR5 was not saved as part of the adoption of the Core Strategy and the site is therefore unallocated. This application, on unallocated land, is therefore assessed on its merits.

In acknowledging that the application site is green field, the NPPF states that where there are no relevant development plan policies, planning permission should be granted unless:

- the application of policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

It is not considered that there any clear policy reasons to refuse the application, nor would there be any adverse impacts, that would outweigh the benefits of the proposed development, when measured against the NPPF.

In terms of the previous concern regarding the constraint at Coney Lane bridge being resolved, the applicant has entered into discussion with the Council, to fund a scheme of highway improvement at Coney Lane. The affordable housing equates to c.£800,000. Instead of providing affordable housing on site the applicant/developer would facilitate highway improvements at Coney Lane, to enable safer pedestrian and vehicle movements at this location, and to accommodate traffic from the development on the local highway network.

The site currently comprises a number of fields with no public access. Whilst the development would result in the loss of those fields, the application site has previously been identified for housing. There has been no material change in circumstances since the site was allocated for housing and as such, the principle of residential development is accepted.

### Housing Land Supply

Paragraph 59 of the 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.

Policy HO3 of the Core Strategy identifies the need to accommodate 3,400 dwellings within the South Pennine Towns and Villages up to 2030.

The Bradford Council Five Year Housing Land Statement (2018-2023) indicates that the 5-year deliverable supply currently stands at 2.06 years. Under these circumstances

paragraph 11d of the Framework confirms that the relevant policies for the supply of housing should not be considered up-to-date and the 'tilted balance' is engaged.

In light of the record of persistent under-delivery and the chronic housing land supply shortfall relative to the requirements of the Framework, there is an urgent need to increase the supply of housing land in the District. The contribution that this development would make towards addressing both market housing and affordable housing need is therefore a significant benefit of the proposal and one which is afforded significant weight.

### Density

Policy HO5 of the Core Strategy advises that residential development should usually achieve a minimum density of 30 dwellings per hectare. This submission has all matters reserved but it includes an indicative site layout plan which illustrates a potential arrangement of up to 103 dwellings. The site has an area of 4.4 hectares and the development of 103 dwellings would provide a density of 23 dwellings per hectare. As can be seen from the site photographs, the application site slopes down from the south and at the northern part of the site there are particular challenges with the terrain. Given the nature of the application site it is considered that a density of 23 dwellings per hectare would be appropriate.

### Highways constraint at Coney Lane bridge

The application site lies c.1.5 mile from Keighley town centre. When travelling between the application site & Keighley, traffic would travel via Coney Lane, over the River Worth. The bridge is currently constrained being relatively narrow with a single footway to the eastern side of the bridge. The road beyond the bridge is also constrained by virtue of being under the Keighley & Worth Valley Railway line, where again there is a footway to only one side of the road and the bridge span limits the passage of vehicles, particularly hgv'. For these reasons, use by both pedestrians and vehicles is compromised at this location.

The applicant would through S106, fund improvements at Coney Lane bridge, with a highways scheme to be designed by the Council in agreement with the developer to address the identified constraint.

It is concluded that the proposed development would not unacceptably impact on highway or pedestrian safety.

### Drainage

On submission the applicant proposed to connect surface water to the public sewer. Subsequently, Yorkshire Water did not agree to this due to concerns on capacity of the public sewer. At that point, the application was effectively held in abeyance as a means of draining the site were reviewed. The applicant in late 2021, identified a culvert within the application site which would be used to drain surface water from the propose development. The existence of the culvert was then confirmed at a site meeting in January 2022, attended by the Principal and Senior Drainage Engineers. Subject to connection to Council as Lead Local Flood Authority has confirmed that the drainage proposal is acceptable. A condition will be imposed requiring connection to the culvert prior to

### Affordable housing

The proposed development would normally be the subject of the provision of affordable housing. The requirement being 15% of the total number of houses.

As referred to above, and minuted as a concern by this Committee, on previous applications at Long Lee, Coney Lane bridge constrains travel between Keighley and Long Lee & beyond. Consequently, this constraint was identified as needing to be addressed in the RUDP, 2005. At least two sites in Long Lee have been the subject of

approved residential development, Redwood Close/Long Lee Lane and Park Lane, 102 houses, with the scheme at Park Lane nearing completion. Both these schemes were approved by R&A Committee, acknowledging the fact that the constraint at Coney Lane bridge had not been addressed. That in part being a result of there been no funding to carry out works at the bridge. With further larger scale development now being proposed at Long Lee, there has been discussions around addressing the constraint of Coney Lane bridge and the applicant has agreed to fund highway improvements at Coney Lane bridge. A total of £800,000 would be provided, £25,000 to be paid up front to allow assessment and design of the appropriate highway measures.

As the applicant has agreed to fund the whole of the works required at Coney Lane bridge, where it is calculated that the S106 contributions, exceed the projected costs of the bridge works c.£800,000, any remaining balance would be payable by the developer towards other planning obligations. In this case, that is likely to be either affordable housing or biodiversity.

It should be noted that this means of dealing with the planning obligations, with the possibility of no affordable housing being provided, would however, ensure the delivery of a highway scheme, that would benefit both the local area and the District.

The Committee is advised if the monies, in their entirety, for improvements at Coney Lane bridge are not delivered as part of this application, then the opportunity to address the constraint is likely to be lost. This forms the largest housing development under consideration in this part of Keighley and the approach outlined is considered to deal with Coney Lane bridge in a comprehensive manner, avoiding the piecemeal approach that has resulted in the lack of delivery of improvements at the bridge to date.

In considering the approach outlined, it is noted that the two developments, by Yorkshire Housing and Accent Housing totalling 102 houses would comprise all affordable housing. Normally, the requirement would be 15 affordable houses between both developments. This scale of affordable housing to be provided at Long Lee has also been factored in to the approach where potentially no affordable housing would be provided at the Moss Carr Road application site. Even without the affordable housing requirement being met at that site, there would be 70 more affordable houses than is required by housing policy.

#### Effect on Residential Amenity.

Policy DS5 requires that the design of the development should ensure that amenity of existing or prospective residents is not compromised. The distance between the existing houses on Moss Carr Road/Moss Carr Avenue and the proposed development has been shown indicatively. The indicative site layout indicates that the required separation distances are achievable with the quantum of development proposed.

It would be ensured that the development meets with standards set out in the Homes and Neighbourhoods Design Guide Supplementary Planning Document through the reserved matters application.

It is not considered therefore, that the distance between existing properties and proposed properties would result in any adverse impact on privacy, or overshadowing of residents.

#### Other Issues Raised in Representations

##### Overdevelopment of the site.

The application site is 4.4 ha in area. Policy HO5 of the Core Strategy indicates a housing density of 30 dwellings per hectare being required. This would equate to c. 120 houses. At 103 houses, the development would actually fall below the density requirements. At the proposed density, the development could not be considered overdevelopment of the site.



### Impact on highway

A Transport Assessment has been submitted and considered by Highways. Traffic generated by the proposed development has been assessed and it is not believed that there would be any adverse impact on the highway network as a result of increased traffic. It is considered that the additional traffic can be accommodated within the local network.

Additionally, the proposal includes improvements on Moss Carr Road, with formalised parking, and the introduction of a footway along the southern side of Moss Carr Road. These measures along with those secured at Coney Lane bridge would in fact provide improvements on the local highway network, to the benefit of pedestrians and road users.

### Impact on wildlife

Bats have been recorded in the local area, there was however, no conclusive evidence of any protected species on the site or the surrounding areas which would be adversely affected by the proposed development, subject to the mitigation proposed. The provision of bat roosting and bird nesting features within the site would result in increased use of the site by some species. Accordingly, there would be no adverse impact on biodiversity as a result of the proposed development.

### Lack of school places/GP places

As with any planning application for residential development, there would be subsequent pressures on local services and infrastructure. In terms of NHS services eg. GP', this is a matter for the NHS, not the Council and it would be for the NHS to plan for any increased demands on its services.

### Planning Obligations

As outlined above, the application would be required to meet an obligation for highway improvements at Coney Lane bridge, by way of a contribution of c.£800,000. As a consequence of the applicant meeting the full costs of the highway improvements, this is intended to be in lieu of the affordable housing obligation.

### **Options:**

The Committee can approve the application as recommended or refuse the application. If the application is refused, reasons for refusal would have to be provided.

### **Community Safety Implications:**

None

### **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.

### **Not for publication documents:**

None

### **Reason for Granting Planning Permission:**

The development of formerly allocated safeguarded land for residential development is considered appropriate, providing the opportunity for sustainable development within Long Lee. The effects of the proposal on the biodiversity of the site itself, the surrounding

locality; and the adjacent neighbouring residential properties has been assessed and are considered acceptable. As such the proposal would meet policies SC9, TR1, TR2, TR3, HO1, HO3, HO5, HO9, HO11, DS2, DS3, DS4 and DS5.

### **Section 106:**

The applicant has agreed heads of terms and planning permission would be subject to Section 106 for a contribution of £800,000 to fund the delivery of highway improvements on the local highway, Coney Lane, in lieu of affordable housing.

### **Community Infrastructure Levy:**

Outline applications are not liable to the CIL but the application site is located within Zone 4 of the CIL map where there is no CIL liability.

### **Conditions of Approval:**

1. Application for approval of the matters reserved by this permission for subsequent approval by the Local Planning Authority shall be made not later than the expiration of three years beginning with the date of this notice.

Reason: To accord with the requirements of Section 92 of the Town and Country Planning Act, 1990 (as amended).

2. The development to which this notice relates must be begun not later than the expiration of two years from the date of the approval of the matters reserved by this permission for subsequent approval by the Local Planning Authority, or in the case of approval of such matters on different dates, the date of the final approval of the last of such matters to be approved.

Reason: To accord with the requirements of Section 92 of the Town and Country Planning Act, 1990 (as amended).

3. Before any development is begun plans showing the:

- i) appearance
- ii) landscaping
- iii) layout
- iv) and scale

must be submitted to and approved in writing by the Local Planning Authority.

Reason: To accord with the requirements of Article 5 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4. 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 and completed to a constructional specification approved in writing by the Local Planning Authority.

Reason: To ensure that a suitable form of access is made available to serve the development in the interests of highway safety and in accordance with policies DS4 and DS5 of the Local Plan for Bradford.

5. Before any part of the development is brought into use, the visibility splays shown on the approved plan shall be laid out and there shall be no obstruction to visibility exceeding 900mm in height within the splays so formed above the road level of the adjacent highway.

Reason: To ensure that visibility is maintained at all times in the interests of highway safety and to accord with policies DS4 and DS5 of the Local Plan for Bradford.

6. A site specific dust risk assessment shall be undertaken for all construction, demolition and earthworks undertaken at the site and an appropriate dust control plan put in place for all relevant stages of work. The dust risk assessment and control measures shall be developed in accordance with the IAQM guidance on the assessment of dust from demolition and construction. Plans shall be submitted to and approved in writing by the LPA and should be maintained on site for inspection throughout the duration of the project. All works on site shall be undertaken in accordance with the approved dust management plans.

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

7. Before the date of first occupation every household on the development shall be provided with access to a purpose built EV charging point. The charging points shall be provided in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. The scheme shall meet at least the following minimum standard for numbers and power output :-

a Standard Electric Vehicle Charging point (of a minimum output of 16A/3.5kW) provided at every residential unit that has a dedicated parking space and/or garage.

One Standard Electric Vehicle Charging Point (of a minimum output of 16A/3.5kW) for every 10 unallocated residential parking spaces.

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.

Reason: To facilitate the uptake and use of low emission vehicles by future occupants and reduce the emission impact of traffic arising from the development in line with the council's Low Emission Strategy, policy EN8 of the Bradford Local Plan and National Planning Policy Framework (NPPF).

8. The development shall not begin, nor shall there be any demolition, site preparation or groundworks, nor shall any materials or machinery be brought on to the site, nor any works carried out to any trees that are to be retained until the tree protection fencing and other tree protection measures are installed in strict accordance with an arboriculture method statement or tree protection plan to BS5837:2012 to be approved in writing by the Local Planning Authority.

9. The development shall not begin until the Local Planning Authority has inspected and given its written approval confirming that the agreed tree protection measures are in place in accordance with the submitted details.

Reason: To ensure that trees are adequately protected prior to development activity beginning on the site which would otherwise harm trees to the detriment of visual amenity. To accord with Policy EN5 of the Bradford Local Plan Core Strategy.

10. Prior to commencement of development the culvert shown on plan x shall be reinstated, repaired or renewed between points A and B on plan x in accordance with a scheme to be approved by the LPA.

Reason: To ensure that the sustainable urban drainage system to be approved pursuant to dwg. no. can be implemented prior to development commencing.

11. Prior to the occupation of the development, or prior to the occupation of such phases of the development as have been agreed in writing with the Local Planning Authority, written verification/evidence that the developer has arranged and implemented site supervision and monitoring of the approved tree protection 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.

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.

12. The development shall not begin until details of a scheme for foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall be designed in accordance with the principles outlined in the FRA Addendum by FRC, doc ref. BL/061219/2019-052-02, dated 06/12/2019. The maximum surface water discharge rate, off-site, shall not exceed 3.5 litres per second. The scheme so approved shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the amenity of future occupiers, pollution prevention and the effective management of flood risk and to accord with Policies DS5, EN7 and EN8 of the Core Strategy Development Plan Document.

13. No groundworks, including the stripping of top-soil, shall commence until a construction phase drainage strategy 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 strategy.

Reason: In the interests of the amenity of future occupiers, pollution prevention and the effective management of flood risk and to accord with Policies DS5, EN7 and EN8 of the Core Strategy Development Plan Document.

14. No development to take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological consultant or organisation, in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority.

Reason: To ensure archaeological assets are properly accounted for in accordance with policy EN3 of the Local Plan.

15. Prior to the commencement of development an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority and the development shall subsequently be carried out in accordance with the approved Plan.

Reason: In the interests of safeguarding protected habitats in accordance with policy EN2 of the Local Plan.

16. Prior to the commencement of development, a site wide Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the consideration of the following aspects of construction:

a) Site wide construction and phasing programme.

b) Principal Contractors' access arrangements for vehicles, plant and personnel including the location of construction traffic routes to, from and within the site, details of their signing, monitoring and enforcement measures, along with location of parking for Principal Contractors and construction workers.

- c) Construction and demolition hours, which shall be carried out between 0800 hours to 1800 hours Monday to Friday, and 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays, unless in accordance with agreed emergency procedures for deviation.
- d) Prior notice and agreement procedures for works outside agreed limits and hours.
- e) Delivery and collection times for construction purposes.
- f) Outline Waste Management Plan (OWMP), providing a statement of site specific reuse and recycling objectives with appropriate targets, compliance training for sub-Principal Contractors, construction code of conduct together with regular auditing and reporting on target achievements and quantities disposed, ensuring that such materials are only consigned to authorised treatment/recovery or disposal facilities, including consideration of participation in a Materials Re-use and Recycling Forum.
- g) Noise and Vibration (including piling) impact / prediction assessment, monitoring, recording protocols and consideration of mitigation measures in accordance with BS5528, 2009 - Code of Practice for Noise and Vibration Control on Construction and Open Sites Parts 1 - Noise and 2 -Vibration (or as superseded) including the use of best practical means to minimise noise and vibration disturbance from construction works.
- h) Confirmation on whether a concrete crusher will be used
- i) Dust suppression management and wheel washing measures, including the deposition of all debris on the highway
- j) Site lighting details.
- k) Screening and hoarding details.
- l) Access and protection arrangements around the site for pedestrians, cyclists and other road users.
- m) permanent and temporary realignment, diversions and road closures.
- n) Consideration of ecological and other sensitive receptors.

Reason: In the interests of residential amenity and to accord with policy and in accordance with policy DS5 of the Local Plan.

17. No development shall take place until details of the construction of foundations and any new retaining walls at the application site have been submitted to and approved in writing by the LPA. The development shall be carried out in accordance with the approved details.

Reason: In the interests of minimising the risk of land instability in accordance with advice and guidance in paras. 170 e) and 178 of the NPPF

