

# Minutes of a meeting of the Regulatory and Appeals Committee held on Thursday, 16 March 2023 in Council Chamber - City Hall, Bradford

Commenced 10.05 am  
Concluded 12.25 pm

## Present – Councillors

LABOUR	CONSERVATIVE	GREEN
Alipoor Shafiq	Brown Sullivan	Edwards

Apologies: Councillors Mullaney & Salam

## Councillor Alipoor in the Chair

### 25. DISCLOSURES OF INTEREST

In the interest-of transparency Councillors Brown, Edwards and Shafiq disclosed that they had been Members of the Committee when the item relating to Moss Carr Road (Minute 29) had been previously considered. They confirmed that no decision had been made at that time and that they would consider the application afresh.

### 26. MINUTES

#### Resolved –

That the minutes of the meeting held on 15 December 2022 be signed as a correct record.

### 27. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted to review decisions to restrict documents.

### 28. MEMBERSHIP OF SUB-COMMITTEES

No changes were recorded.

### 29. LAND OFF MOSS CARR ROAD, LONG LEE, KEIGHLEY - 19/04151/MAO

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

Members were reminded that the application was deferred at the meeting of this Committee held on the 24 March 2022. At that meeting the Committee resolved that the application be deferred to a future meeting, to allow for further information/clarification to be provided on the following issues:

- Arrangements for the drainage/culvert.
- Access/egress and;
- Provide an update on the Village Green application and assess its impact on Moss Carr Road.

Further information/clarification on the above issues was included in Appendix 1 to Document “I” updating the position on the drainage/culvert; access/egress and the Village Green application. These matters had now all been satisfactorily resolved.

In addition, it had subsequently been brought to the Council’s attention that there were mine shafts within the application site and consequently the Coal Authority had also been consulted on the application. The concerns raised by the Coal Authority were that the existing mine shafts pose a potential risk to the proposed development and that investigations are required, along with remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted for the proposed development, it is recommended that conditions are included on the Decision Notice. The Coal Authority had therefore withdrawn its objection to the proposed development, subject to the imposition of conditions. It was confirmed that no houses would be built on the mine shaft areas and that the shafts did not pose any safety threats.

Photographs of the site were presented which showed the proposed access to site, the boundary of the site; a public footpath; dry stone walls and the changing levels of the application site. The previous point of access was also revealed and indicated that the single point of access and egress had now been moved further to the west than previously had been the case, and therefore the access would no longer be opposite the area subject of a village green application, the access could not be seen to have any impact on the village green. In terms of the proposed access/egress from Moss Carr Road, this had been agreed by Highways and is not considered to unacceptably impact on highway or pedestrian safety.

It was reported that there had been 154 representations received and one late objection since the publication of the agenda relating to potential toxic emissions; flooding and the volume of new houses in the area. Representations received from elected Members and residents were summarised in the report and additional points and photographs were tabled at the meeting.

An appraisal and corresponding comments on the reasons for the deferment at the meeting in March 2022 were provided and addressed the following issues:

- It had been demonstrated that a culvert on the site and surface arrangements would provide sufficient drainage. A condition that the culvert be repaired had been accepted by the applicant.
- Officers had visited the owners of a nearby farm and discussed concerns regarding a pond on the farm land. Methods of pollution control would be put in place to ensure there were no pollution incidents and these were considered to be acceptable.
- The alternative access proposed would not impact on the future allocation of village green status. The Strategic Director, Place, had given authority to proceed with the village green application and this was now subject to advertisement.
- The realignment of the access arrangements was not considered to have a detrimental impact on the occupiers living in that location.
- A former mine working assessment had been conducted and was acceptable to the Coal Authority.
- Lengthy discussions had taken place with the applicant on planning obligations and it had been agreed that improvements would be made to the Coney Lane Bridge and the surrounding areas in lieu of the affordable housing requirements.

In conclusion, the Strategic Director, Place, reminded Members that the proposed development would provide much needed housing in the area as well as addressing the existing traffic issues at the Coney Lane Bridge. It was therefore recommended that the application be approved subject to the conditions contained in Document "I".

During questions, a Member referred to his experience of issues when residential properties had been constructed on former mine works, leading to problems when those houses were sold on and future purchasers were unable to secure a mortgage.

In response it was explained that there were six areas of the application site where mine shafts had been identified. Houses would not be built on top of the mine shaft and that the development could not progress until agreement was reached with the Coal Authority on the detailed layout.

Photographs which had been circulated from elected Members in objection to the proposal, depicting nearby roads which were prone to flooding, were discussed and Members were advised that those problems were because of existing drainage issues and were not the responsibility of the applicant. Those drains were to the east of the proposal and were separate to those for the development being considered. Assurances were provided that surface water would drain to a water course culvert and foul water to the sewer approved by Yorkshire Water. In times of inclement weather water would be held back in attenuation tanks to reduce flood risks further down-stream. Detailed designs of the methods to control that flow had not yet been provided but the most common methods were

with the use of an outflow manhole or balancing tank.

The appraisal of the principle of development revealed that the land was on 'unallocated' land and must therefore be considered on its merits. However, it was stressed that this was not land situated in the green belt and where there are no relevant development plan policies, planning permission should be granted.

In response to suggestions that it may be prudent to wait for the classification in the emerging local plan, it was explained that Government had stated that the area had half the housing required. The emerging plan was approximately seven years away and the Council could not wait to consider applications until that time.

A Member questioned if pedestrian access points would change in the development and it was explained that the principle of a footpath would be considered at the reserved matters stage, but that there would be a footpath on that site.

The provision of a travel plan was queried and Members were advised that a travel plan would include details of the nearest bus and rail services and promote the use of other methods of travel as an alternative to the car.

A ward Councillor addressed the meeting and shared her local knowledge of the development site and questioned why green belt land could not now be classed as green belt land.

She expressed concern that an independent assessment had not been carried out on the mine shafts in the area and she believed that those shafts were very deep and widespread. It was reported that, in previous years, a relative of that ward Councillor had been unable to build on that land because of those mine shafts, and it was felt that they posed a real safety threat to people's homes, gardens, and nearby roads.

It was stressed that the main concerns about the proposed development were the mine shafts and flooding in the area. It was reported that the peat moors behind the application site resulted in flooding every time there was heavy rain.

Members were also informed that the people who owned the local farm in the area had farmed there for many years and would not allow drainage across on their land. A previous high court ruling against the Canal and River Trust in 2021 was referred to.

In conclusion it was requested that consideration of the application should be refused or adjourned to allow comprehensive reports to be provided on the drainage and mine shafts issues.

A local resident, speaking on behalf of a number of residents, reported that permission for a single dwelling, only 100 yards from the proposed development of 103 houses, had been refused as the land was categorised as being in the Green Belt. She referred to the reports account of the need to consider the application on its own merits and queried that statement, as she understood an audit trail had revealed that the land had been classed as safeguarded and then green field. It was believed that the unmet need for housing should not override

the land's green belt status.

She continued to report that the land in that area acted like a sponge soaking up water from higher levels. A previous report in 1998 which had recognised that surface water would not drain from property developments into the water course was also referenced.

It was believed that technical investigations were required and that it had not been demonstrated how the water culvert or attenuation tanks would prevent flooding in the area. She referred to her professional experience of drainage issues through her employment and to the inability to predict when flooding could occur. It was believed that drainage issues should not be a reserved matter and she referred to North Yorkshire Council sharing that view.

Following consideration of her objections it was questioned if the farm owners could prevent water drainage under their land and it was confirmed that under the Land Drainage Act, the developer would be allowed to access that water course.

Another Ward Councillor reported that the majority of the land was green belt, as evidenced in information circulated from other ward members. She explained that Moss Carr Road was a narrow road, often with only one carriageway available because residents, legally, parked on the road. It was believed that even if the road was clear it would not allow large vehicles to pass one another. A picture of that road was provided.

Previous major applications at or beside the site in previous years were referred to and had been refused as a result of Moss Carr Road not being sufficient to support those developments. The highways officer's report for one of the refused applications was quoted as saying "*Highways opposed the scheme. Access was very poor, with gradient and limited visibility on the inside of the bend*". Those issues were referenced again in the highways report on the application being considered yet, despite nothing changing, the officer had said it would be fine to go ahead.

It was explained that Moss Carr Road was a cul-de-sac that serviced residential properties, kennels, a cattery, and three working farms. The road was used daily by those businesses, and if large construction vehicles were to use and block Moss Carr Road, which it was believed they would as had been discovered on Redwood Close nearby, they would suffer in terms of lost time, money and spooked animals.

The road junction with Long Lee Lane was described and it was explained that there was a crossroads linking Moss Carr Road, Calton Road and Long Lee Lane. The highways report mentioned turning right from Long Lee Lane into Moss Carr Rd being an issue, which it was felt was not really the problem, however, the sightline from Calton Road, as evidenced in pictures provided, was a nightmare. People turning right towards Keighley faced a private wall blocking their view to the left, which was the brow of the hill where the speed limit was 30mph, although that was not adhered to. It was felt that adding large construction vehicles to the mix and an extra 200+ vehicles at peak times, would make the lives of everyone living below Calton Road a total misery. Highways officers had previously suggested during a meeting with Members on site that a build-out might help.

That build out had not been actioned and it was feared that if the development was approved a much better and safer plan would be needed. Traffic lights or a roundabout PLUS a zebra crossing would be required. It was believed that the splitter mentioned in the report would do nothing to solve the problems on Calton Road.

A picture circulated depicted a map produced by the Coal Authority and it was reported that the mines shaded were mined at more than 30 metres below ground surface. It was maintained that this showed mining work covered the vast majority of the proposed site. It was argued that building on the site would be incredibly dangerous and a full geo scan should be completed before any planning decision was made.

In relation to traffic issues it was claimed that there had been a block on building in Long Lee for more than two decades due to the difficulty of traffic getting passed Coney Lane bridge, a narrow dog-leg road at the confluence of the river, railway and Coney Lane. When planning applications on this land were considered previously, officers were adamant building could not take place due to the bridge and other reasons.

Reference was made to the replacement unitary development plan in 2005, which stated "*Access to the development would be dependent on highway constraints at Coney Lane Bridge being resolved.*" It was maintained that the issue had not been resolved, yet the Council had allowed several housing developments and scores of other houses to be built in Long Lee and up Park Lane in the past five years.

Concerns were also raised that despite the application providing £1m to rectify the bridge issues, there was no scheme design or assessment to say how much a scheme might cost, particularly in light of national financial chaos. It was questioned what would happen if the cost was triple the amount being offered by this developer and concern expressed that the council was asking for only £25k upfront. It was questioned what would happen if the development was approved and built then the builder went bust. It was felt that the, in that situation, the people of Keighley, particularly residents in Long Lee, Thwaites Brow, Hainworth Wood and Parkwood, would suffer poor infrastructure and queues of traffic.

Members were urged to consider all the points raised and reject the application, or defer, to look properly into problems with the junction, the mines on the application site and the unsuitability of yet more houses when Coney Lane Bridge could not cope.

A Member queried that there did seem to have been a number of previous proposals in the area which had been refused and questioned if it was because of the road layout and bridge or if the development site was green belt.

In response the Council's legal representative explained that the assertion that the land was green belt was wrong. In the previous Unitary Development Plan the land was categorised as safeguarded land for future development. Flooding and local coal mines could be technical reasons for refusal, but it would not be appropriate to go against the advice of experts.

In response to questions about previous refusals for applications in the area it was not known why they had been refused. Members were advised that there should be no precedence in planning and their decision should be made on the merits of a particular application. It was reiterated that the proposal being considered was not located on green belt land. It was questioned if the land had ever been classed as green belt and it was stated it may have been previously, but that classification was now not relevant.

During questions and comments, a Member acknowledged that there was a need for additional housing in the area and that he had faith in the officers' technical appraisal and recommendation.

The applicant addressed the meeting and referred to the previous adjournment when he had been asked to consider access and drainage issues. He confirmed that they had amended as Members had wished. He also confirmed that the developers had a legal right to drain the land and that water attenuation measures will be incorporated in the development.

With regard to the mine shafts it was explained that the Coal Authority had provided a five-page report and withdrawn their objections, subject to conditions being implemented.

It was stressed that no residential developer would build if their potential occupants were unable to obtain mortgages on those properties and that vast amounts of resources were being invested into the development.

In response to questions about the timescales for the development, it was explained that a lot of technical work was still required before the application got to the reserved matters stage, and therefore it was difficult to give a timescale.

Members questioned if the money from the S106 agreement for the road/bridge improvements could be received in stages and it was confirmed that 75% of the money must be received before the houses could be occupied. It was also agreed that a contribution to public transport could be secured through the applicant.

The level of anticipated traffic was also questioned and the Council's Principal Highways Engineer reported that it was expected that the development would generate around 60 vehicle movements an hour. Engineers considered that the number for the junction would be safe. In the morning peak hour there would be 46 vehicles leaving and 14 returning. That figure would be less during the evening peak, as people tended to return at different times.

Subject to public transport infrastructure improvements and the reserved matters application coming back to this Committee, it was:

**Resolved –**

**(1) That the application be approved subject to completion of the Section 106 Agreement to include the funding of highway improvements at Coney Lane bridge, Keighley and the conditions contained within Appendix 1 to Document "I", and also subject to the**

following additional condition:

**(i) Public transport infrastructure condition**

The development shall not begin until a scheme for public transport infrastructure improvements, including the provision of a bus shelter and bus only Residential MetroCards for the future occupiers of the development for a 1-year period, together with a timetable for the implementation of the agreed scheme has been submitted to and agreed in writing by the Local Planning Authority. The Approved scheme shall then be implemented in full in accordance with the approved details.

**(2) That any future Reserves Matters Application on this site be considered by this Committee.**

***Action: Assistant Director Transportation Design and Planning***

Chair

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

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