

## **Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee to be held on 8 March 2018**

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### **Subject:**

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

### **Summary statement:**

The Regulatory and Appeals Committee are asked to consider the recommendation for the determination of planning application ref. 17/05255/MAF, for the formation of 8 structures housing 9 commercial units (B8 & B2 usage), made by the Assistant Director (Planning, Transportation and Highways) as set out in the Technical Report at Appendix 1.

The proposal is essentially for the extension of Keighley Industrial Park through the development of 8 industrial sheds and associated infrastructure on a greenfield area of land to the north, which is partly within the Green Belt and entirely on a floodplain and includes an oxbow wetland which is designated as a Local Wildlife Site.

The application was deferred from consideration at the 7 December 2017 Committee to allow the applicant opportunity to submit further information, particularly in relation to flooding matters. This information has now been received; however strong objections to the development on flood risk grounds have been maintained by both the Environment Agency and the Council's Drainage Unit, acting as Lead Local Flood Authority. Planning policy conflicts also remain in respect of Green Belt, Landscape, Ecology, Air Quality and Highways matters.

The potential benefits of providing additional industrial, storage and distribution buildings in this location are acknowledged. However the planning assessment remains that these benefits do not outweigh the harm the development would cause, particularly in terms of the harm the development would cause to the Green Belt and the Functional Floodplain. Taking development plan policies and other material considerations into account it is therefore recommended that planning permission is refused.

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### **Portfolio:**

**Regeneration, Planning and Transport  
Overview & Scrutiny Area:**

**Regeneration and Economy**

## 1. SUMMARY

The proposal is for an extension to Keighley Industrial Park onto approximately 10.7 hectares of greenfield land to the north of the existing industrial estate. The land is set at a lower level than the adjacent industrial park and comprises generally boggy land including, grassland, hedgerows, a watercourse and an ox-bow wetland and adjoins the Rive Aire.

The proposal is to re-grade the land through a cut and fill exercise to achieve a uniform ground level of 84 metres AOD, with additionally three slightly deeper (150mm) depressions formed beneath 3 of the shed footprints. A 300 metre long access road, hard standings to be used for parking and servicing and 8 industrial sheds with a combined footprint of 41,750m<sup>2</sup> would then be constructed on the land.

The applicant proposes to raise the sheds up on stilts with an open void beneath secured with mesh grills, which are intended to allow flood water to pass beneath. The majority of the access road, other than the roundabout at the end, and a proportion of the car parking (208 spaces), would also be raised above the flood level. However the main loading areas and the majority of the site car parking would be provided at the lower level of 84m AOD and would be subject to a high flood risk. Proposed landscaping includes native trees and shrubs to the northern and eastern boundaries of the site, along a retained drain/ watercourse transecting the site and around the parking areas, together with wildflower grassed areas and bird and bat boxes.

The application was previously presented to the Regulatory and Appeals Committee at the meeting of 7 December 2017. At that Committee Meeting the Committee resolved:

*That consideration of the application be deferred to the meeting of the Committee to be held on 8 March 2018 and that the applicant be requested to submit further information to address the reasons for refusal set out in the Assistant Director - Planning, Transportation and Highways' technical report, with specific reference to:*

- i. An explanation of how the proposals for these unique buildings will not create flood risk issues, including examples of similar successful development elsewhere,*
- ii. What mitigation circumstances may apply,*
- iii. Consideration of any flood plain works being carried out elsewhere that may assist this development,*
- iv. A Sequential Test and an Exceptions Test in accordance with the requirements of the National Planning Policy Framework (NPPF),*
- v. Habitat mitigation measures,*
- vi. More detailed proposals for flood safe car parking provision,*
- vii. The regeneration and employment benefits of the scheme; to include dialogue with the Council's Economic Development Department.*

Following the Committee Meeting the Case Officer wrote to the applicant inviting him to provide the further information requested by the Committee and providing contact details for officers in the Council's Economic Development Service to allow dialogue to take place. The applicant then met with Officers on 25 January 2018 and submitted a raft of further information and revised drawings on 01 February 2018, including:

- Revised Design & Access Statement:
  - Adjusted to reflect the revised car parking, ecological landscaping and flood mitigation proposals.
- Air Quality Assessment, which concludes that:
  - Predicted impacts on NO<sub>2</sub> and PM<sub>10</sub> concentrations as a result of operational phase exhaust emissions were predicted to be negligible at 16, slight at 2 and substantial at 1 representative sensitive receptor locations within the vicinity of the site.
  - The overall significance of potential impacts was determined to be not significant, in accordance with the EPUK and IAQM guidance.
  - Based on the assessment results, air quality is not considered a constraint to planning consent for the proposed development if the relevant mitigation is adopted.
- Ecology mitigation and enhancement proposals, including provision for:
  - Native tree & bush planting;
  - Wildflower grass areas;
  - Bird boxes;
  - Bat boxes/ bricks;
  - Hedgehog houses;
  - Damp marginal wildflower areas.
- Sequential and Exceptions Test Report, which assessed:
  - A total of 15 No alternative sites were identified from the Local Development Framework for Bradford Evidence Base Employment Land Review Update October 2011 within the Airedale area.
  - Of these sites 4 No sites are located within Flood Zone 3 and therefore were discounted from the test due to not providing a betterment in terms of flood risk.
  - None of the remaining 11 sites are appropriate in terms of availability, suitability and achievability.
  - In conclusion there are no sites which are considered to be suitable; 'reasonably' available; and developable; and as such in terms of the Sequential Test the study site is therefore deemed suitable.
  - Furthermore, providing that the mitigation measures identified within the Flood Risk Consultancy's FRA report 2016-124-A are incorporated into the proposed development the flood risk can be suitably managed.
- Document on the Principle of Building on stilts which highlighted examples from:
  - Holland;
  - The Suffolk Peninsula;
  - Essex;
  - Mytholmroyd, and
  - Ashford.
- Visual Impact Statement, which concludes that:
  - Development of this site would have minimal impact on existing Landscape Character; would extend the existing commercial streetscape with minimum detriment to existing users; and would not impact on distant views into the area.

- Revised plans:
  - Including amendments to the car parking (additional parking provided above the flood level), a revised footpath diversion, retention of the current watercourse which transects the site and augmented landscaping proposals.

The above revised proposals and further information have been subject to further consultation, as a consequence of which updated responses have been received, including from the Environment Agency, the CBMDC Planning Policy Team, Drainage Unit, acting as Lead Local Flood Authority (LLFA), Landscape Design Unit and Rights of Way Service. In summary the updated assessments of these expert consultation bodies advise that:

***Drainage/ Lead Local Flood Authority***

*The application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary to Tables 1 and 3 of the Practice Guide to the National Planning Policy Framework. The proposals are classified as 'Less Vulnerable' and as such are not permitted within Flood Zone 3b. **The LLFA therefore recommends the application be refused based on this fundamental National planning policy contravention.***

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

*The application does not include a hydrological assessment of the proposed alterations within the floodplain, and whether these alterations will have an effect on flood risk within the River Aire catchment. The current flood levels used by the applicant in its assessment of flood risk do not include the latest allowances for climate change. **The LLFA therefore recommends the application be refused because the second part of the Exception Test has not been passed as 'development has not been shown to be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.***

*The development scheme does not clearly show how the flood water which will be displaced by the access road, raised car parks and ramps or the surface water attenuation system will be compensated for within the site. **The LLFA therefore recommends the application be refused because the second part of the Exception Test has not been passed as 'development has not been shown to be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.***

### **Environment Agency**

*We have reviewed the information submitted and we maintain our objection to the proposal. Our comments provided in our previous response dated 30 October 2017 remain valid and are included below for clarity.*

*We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.*

*Practice Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3b (functional floodplain) defined by the Practice Guide to the NPPF as having a high probability of flooding.*

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

### **Landscape Design**

*The site takes in the Beechcliffe Oxbow Lake which has value as a wildlife habitat and is a designated Bradford Wildlife Area (BWA). This will be largely destroyed if the proposal proceeds to construction. This feature has some historic as well as wildlife value. The submitted plans show it obliterated by proposed units 2, 3 and 4. I would strongly suggest that the whole of the BWA is retained in its current form and the layout of the site revised accordingly. The cut and fill operation that will be required to adjust the level across the whole site is a total re-profiling of the landform that will remove all existing vegetation and preclude the retention of any trees.*

*The Visual Impact Statement that has been supplied is in my opinion relatively superficial and a scheme of this calibre demands that a fuller Landscape and Visual Impact Assessment be produced. The conclusion of the supplied Visual Impact Statement states that the development will have minimal impact on existing landscape character. There is no substance to this given that it is based on a limited and simplistic appraisal of visual impact, with no consideration of landscape effects. The report also concludes that 'The site offers the opportunity, though a landscape led strategy, to offer a valuable site for the provision of new commercial space on an accessible and sustainable site.' Had the proposal genuinely been based on a landscape led strategy, the oxbow lake would be retained.*

*If the site does offer the opportunity for the provision of new commercial space then in my opinion it is in the form of a less extensive development that respects the existing landscape character of this edge of town riverside location.*

**Planning Policy – Sequential Test Review**

*In regards to the area of search a site which is over 10ha is of such a significant size, I think this makes it at least a District wide level of search. The Core Strategy for example only allocate 30ha of employment land for the next 15 years in Airedale. Taking this into account, the following sites are more sequentially preferable:*

- *BN/E1.17 - WOODHALL ROAD, THORNBURY*
- *BS/E1.7 STAITHGATE LANE NORTH, ODSAL*
- *K/UR5.39 BANKLANDS AVENUE EAST, SILSDEN*
- *K/UR5.36 HAINSWORTH ROAD, SILSDEN*

*The above sites are all within lower to no flood risk zone. This does not include a list sites which are not allocated but may be vacant in the District. Something I would expect to see in a sequential assessment.*

*Notwithstanding the above, the consideration of the sequential assessment or exception test should not have been undertaken. The NPPF and the supporting NPPG (National Planning Practice Guidance) make it clear applications 'less vulnerable development' are not appropriate in Flood Risk Zone 3b. Like the NPPF, the NPPG is a material consideration in the determination of planning applications. The NPPG is there to provide further detailed information to the contents of the NPPF, and thus hold the same status and weight in the determination of applications.*

*If the application were to be approved it may be called in by the Secretary of State as a departure to the development plan as it's within the Green Belt, and the Environment Agency (EA) also have call in powers due to the flood risk issue.*

**Rights of Way**

*The revised proposals appear to have acknowledged the need to divert sections of public footpaths Keighley 11, 12 and a short stretch of footpath 699. This process will need to be done by legal order. I do have slight concerns regarding the proposed section of new path running to the rear of unit number 4, ideally any new path should run through a wide green corridor.*

*There are also remaining concerns regarding the use of this land for development due to any possible adverse effect on the flood plain and the loss of historic landscape features in the area. While it is noted that the existing footpaths are subject to occasional flooding we would like to ensure that these proposals do not add to flooding problems within this site and at other locations in the area as noted in my original comments.*

*With respect to the riverside path it is noted that it is retained in a green corridor however we would still like to ensure that the applicant is asked to commit to carrying out works to help stabilise the river bank, as this will help limit future*

*erosion, as river bank erosion may in the future adversely affect access to the riverside public right of way.*

These consultation responses and the further information provided by the applicant have informed an updated planning assessment set out in the Technical Report at Appendix 1. In relation to Flood Risk the report continues to advise that the development remains unacceptable in terms of its position on the functional floodplain and because neither the Sequential Test nor Exceptions Test are passed. This is because alternative potentially suitable development land at a lower risk of flooding has been identified within both Airedale and the wider District and the submission does not demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere, taking into account the effects of climate change.

Given that no further information has been submitted in relation to the Green Belt Harm/ the Very Special Circumstances test or the highways concerns which were previously raised the assessment also continues to advise that the development is unacceptable in Green Belt and Highways terms. However the proposed revised footpath diversion proposals appear to substantially alleviate the concerns of the Rights of Way Service in relation to the impact of the development on the footpath running through the site and the suitability of the proposed alternative route and therefore the rights of way reason for refusal has been omitted.

The assessment that the development will harm the character of the landscape also still stands. This is due to the inadequacy of the visual assessment provided in terms of demonstrating the harm to the character of the landscape would not be substantial and the clear harm the development would cause to the landscape, particularly in terms of the obliteration of all trees on the site and the oxbow wetland.

In terms of air quality issues, notwithstanding the further assessment provided by the applicant, the Council's Air Quality Team have confirmed that they remain strongly concerned that the development would increase HGV traffic emissions at specific locations which are currently subject to poor air quality to the extent that air quality would be worsened to an unacceptable degree at these locations. Mitigation which would be sufficient to overcome this issue has not been proposed. It is therefore also advised that the development remains unacceptable on air quality grounds.

Therefore this report continues to advise the Regulatory and Appeals Committee that the proposed development is contrary to the national and local development restraint policies applicable to the green belt and the functional floodplain and that the benefits of the development are not considered to outweigh the harm the development would cause in terms of Green Belt, Flood Risk, Ecology, Landscape and Air Quality issues. Taking development plan policies and other relevant material considerations into account it is therefore recommended that planning permission is refused, for the detailed reasons set out in the report at Appendix 1.

## **2. BACKGROUND**

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

### **3. OTHER CONSIDERATIONS**

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

### **4. OPTIONS**

If the Committee proposes to follow the recommendation to refuse planning permission then the Assistant Director (Planning, Transportation and Highways) can be authorised to issue a Decision Notice refusing planning permission either for the reasons set out in this report or for any other valid planning reasons which the Committee consider to apply.

Alternatively if the Committee decide that planning permission should be approved, they may resolve that planning permission should be granted either unconditionally or subject to conditions. Reasons for approval should be given based upon development plan policies or other material planning considerations.

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

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

None relevant to this application.

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

None relevant to this application.

### **7. LEGAL APPRAISAL**

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

### **8. OTHER IMPLICATIONS**

#### **8.1 EQUALITY & DIVERSITY**

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

The context of the site, the development scheme proposed and the representations which have been made have been reviewed to identify the potential for the determination of this application to disadvantage any individuals or groups of people with characteristics



protected under the Equality Act 2010. The outcome of this review is that there is not considered to be any sound basis to conclude that either refusing or approving planning permission would be likely to lead to disproportionate impacts on any groups of people or individuals who possess protected characteristics. Full details of the process of public consultation which has been gone through during the consideration of this application and a summary of the comments which have been made by members of the public are attached at Appendix 1.

## **8.2 SUSTAINABILITY IMPLICATIONS**

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

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

The proposal is for the development of a 10.7 hectare area of previously undeveloped (greenfield) land with industrial/ storage and distribution buildings and associated infrastructure. The development of 30 hectares of new employment land within Airedale is identified within the Core Strategy as being necessary to contribute to building a strong, responsive and competitive economy. However the report at Appendix 1 explains why the proposal site is not the right place for this development in terms of green belt, flood risk, ecology, landscape and air quality issues. It is therefore not considered that the proposal represents Sustainable Development within the meaning of the NPPF.

## **8.3 GREENHOUSE GAS EMISSIONS IMPACTS**

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

The Council's Low Emissions Strategy sets out mitigation measures which are required to mitigate such adverse impacts, including through low emissions travel plans, electric vehicle charging and emissions damage cost calculation/ offsetting. Although the

application does include a Transport Assessment, Travel Plan Framework and Air Quality Assessment these documents do not adequately provide for measures to off-set or mitigate the adverse air quality and greenhouse gas emissions impacts of the development contrary to Core Strategy Policy EN8(A). Further details of site sustainability considerations and air quality issues relevant to the proposed development are set out in the Technical report at Appendix 1.

#### **8.4 COMMUNITY SAFETY IMPLICATIONS**

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

#### **8.5 HUMAN RIGHTS ACT**

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

#### **8.6 TRADE UNION**

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

#### **8.7 WARD IMPLICATIONS**

The proposal site is within the Keighley Central Ward. Ward Councillors and local residents have been made aware of the application and have been given opportunity to submit written representations through notification letter, site notices and an advertisement in the press. A second round of publicity, including the posting of site notices and neighbour notification letters, was initiated on 6 February 2018 following the submission of further information/ revised proposals.

In response to this publicity 21 written representations have been received 13 of which object to the application and 8 of which support the application. Keighley Town Council have not commented upon the application. The Technical Report at Appendix 1 summarises the material planning issues raised in the representations and the appraisal gives full consideration to the effects of the development upon the Keighley Central Ward.

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

**9. NOT FOR PUBLICATION DOCUMENTS**

None

**10. RECOMMENDATIONS**

To refuse planning permission for the formation of 8 structures housing 9 commercial units (B8 & B2 usage) with associated car parking, highways connection, drainage and landscaping on land north of Royd Ings Avenue, between the A629 and the River Aire for the reasons set out at the end of the Technical Report at Appendix 1

**11. APPENDICES**

Appendix 1: Technical Report

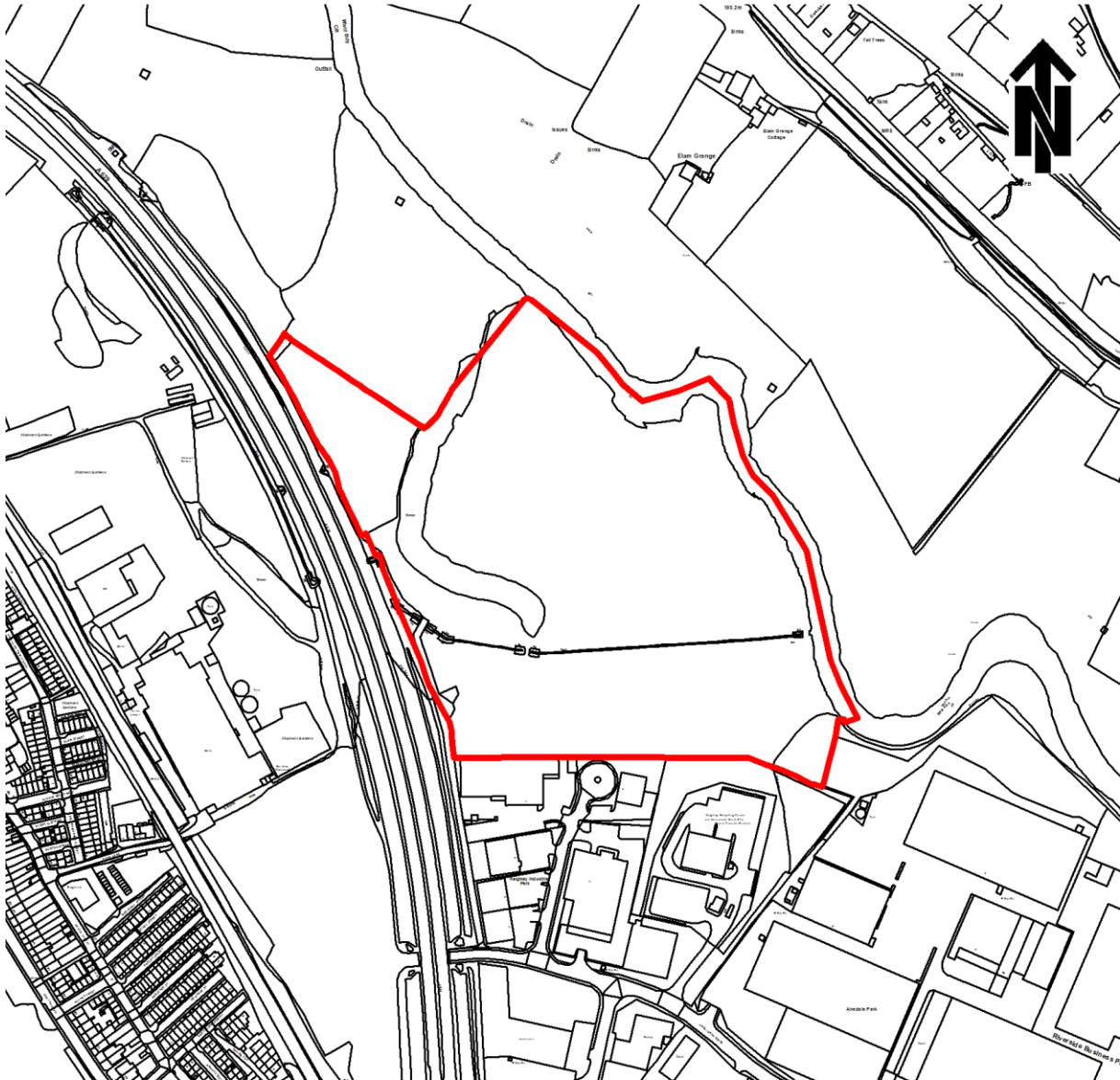
**12. BACKGROUND DOCUMENTS**

- Adopted Core Strategy
- National Planning Policy Framework
- Application file 17/05255/MAF

**17/05255/MAF**



*City of*  
**BRADFORD**  
METROPOLITAN DISTRICT COUNCIL



1:5,000

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

## Appendix 1

08 March 2018

**Ward:** Keighley Central (ward 15)

**Recommendation:**

To Refuse Planning Permission

**Application Number:**

17/05255/MAF

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

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

**Applicant:**

Mr Horrell: PH Holdings

**Agent:**

Mr Michael Ainsworth: MADP

**Site Description:**

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

**Relevant Site History:**

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

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

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

***Proposals and Policies***

As the site is within the Green Belt saved policy GB1 of the Replacement Unitary Development Plan (RUDP) is relevant. The majority of non-allocation related policies within the RUDP have now been superseded by those set out in the Core Strategy. The

following adopted Core Strategy policies are considered to be particularly relevant to the proposed development:

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

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

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

**Parish Council:**

*Keighley Town Council – No Comments Received*

**Publicity and Number of Representations:**

The application was advertised as a major planning application through the posting of site notices and neighbour notification letters and the publication of a notice in the Telegraph and Argus newspaper. The date specified on these initial notices, by which representations should be submitted, was 9 November 2017. A second round of publicity was initiated on 6 February 2018, with an end date of 21 February 2018. In response to this publicity 21 written representations have been received 13 of which object to the application and 8 of which support the application.

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

## **Summary of Representations Received:**

### **Support**

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

- Great idea and a perfect location, let's hope the units have a knock on effect on the prices and allow business to expand.
- As long as the flooding issue can be resolved I strongly support this application.
- I run a large fleet of heavy goods vehicles more industrial units will mean more goods moving in and out of Keighley.
- I know from talking to businesses there is a shortage of units like this.
- I hope our politicians come out and support this!

### **Objection**

- Other more suitable brownfield sites exist... The council should proactively find brownfield-sites that are close to all transport networks and make it affordable and appetizing to developers.
- Bradford Council should follow its own Core Strategy and refuse the application.
- I can only object to this being carried out on the grounds that this is a flood plain which a few years ago was under 3 feet of water and floods every year although not always as bad. It also contains a lot of wildlife such as frogs, toads, newts and deer to name but a few. Keighley Angling Club own the fishing rights down there so what will happen to them? It is also a public right of way so what will also happen to that?
- This development lies in an area which must be protected for the wildlife that exists there and also utilizes the area. The very fact that it is also on the floodplain as identified in the environment agency report must mean that permission is refused. There are plenty of brown field sites in Keighley which could be used for this development.
- The area immediately affected by the proposed developments is a sensitive ecological area of which more than half lies within the green belt area. The ecological survey confirms this is an important site for mammals and birds. Indeed it lies on the Aire Valley migration corridor. Within the near area there are several bat species, frogs, toads and newts. In my garden there is a breeding colony of slow worms. These creatures are increasingly threatened by the gradual reduction of their habitat. I can easily see the proposed sight from my house. There is a canal and a river between my house and the site. Slow worms are well documented as strong swimmers.
- The Leeds Liverpool canal conservation area is in place to protect the environment and views from the canal. This proposed development does not comply with this, indeed it actively contradicts this. Unless of course it only applies to domestic properties who must comply with a conservation area. My garden borders the canal and over the last few years I have seen an increase in the number of people who use the canal and towpath for leisure. Canal boat holidays appears be on the increase. Most noticeable is the increase in bicycle traffic. The Tour de Yorkshire promoted cycling very successfully - not only to "serious" cyclists but to families who use the towpath as a safe, attractive, clean way to spend healthy, environmentally family time together. It appears counter productive to promote the beautiful countryside of the area and then build industrial units on it.
- The proposed development represents a significant increase of the existing site. What is now a relatively small industrial estate would become a very different proposition if the site is further developed. There are several sites within a relatively



small area which could each accommodate one or two units without having such a negative environmental and visual impact.

- The proposed site allows for 361 parking spaces. This is a significant increase in traffic, all of which would have to queue to join larger roads. The negative impact on the environment of standing traffic is well known. Given that there are plans to build an incinerator on the bypass, the "double whammy" of these two proposed developments pose a significant threat to the health and wellbeing of the population and the environment.
- The proposed development is on a site which floods. This is well known. Building the units on artificially raised land may prevent the new buildings from flooding but will only contribute towards increased water going into the river. Any land which has a hard surface on it will not absorb rainwater. The water will run off and enter the river thus placing houses and businesses downstream at increased risk of flooding. In addition, any flood water from upstream will have less land to overflow, thus resulting in more water flooding a smaller area downstream, for example, nearby Stockbridge, which has already experienced serious floods in recent times. The financial costs of this could be serious, but the emotional costs would be devastating to those affected.
- There is not a single brownfield site left available in Keighley. The site off Dalton lane has been sold to developers. The site off east parade behind the Sainsbury's petrol station has been also sold to developers. I'm not aware of any more sites in Keighley.
- It will result in the loss of precious natural river bank habitat. Despite the findings of the Industrial report included with the application, the fact remains that either within or near to Keighley there are several large derelict brownfield sites that could be brought back into commercial use if the will was there - the sites off Dalton Lane and at Beechcliffe are mentioned in the report and there is also land off Gresley Road, as well as Castlefields at Crossflatts. In any case as the units are to be let separately, there is no need for all to be sited together, totalling 44,000 sq m; they could be sited elsewhere within the town in smaller concentrations .
- The proposal represents an over intensive development of the land; there are an excessive number of buildings for the site area and this will result in the impression being given of one huge roof when viewed from West Riddlesden, where we live. Worse, this over intensive development will be emphasised by the buildings being raised above the flood plain; the drawings suggest a ground level to eaves height of 13 metres (or 42 feet in Imperial measure). Compared with a normal industrial unit height of 10.5 metres, this means these warehouses will be 2.5 m (over 8ft) higher - and this adjacent to open country and the river. Houses in West Riddlesden are built on the hillside and therefore look down onto the river and the fields of the flood plain. The proposed development would therefore be excessively dominant and detrimental to our outlook and view.
- The landscape plan shows trees to be planted adjacent to the river, yet this ceases towards the eastern edge of the development for some reason, leaving the end of one unit totally exposed, this being the one unit that would be most prominent for us.
- The submission claims that "only" 54% of the development is within the greenbelt. The fact that more than half is admitted to be in the greenbelt should be enough for the application to be refused, but a quick study of one of the Key Consideration

plans, without the benefit of CAD, suggests that the figure must be considerably greater than 54%, unless the measurement only takes in the buildings footprint rather than the full site area, in which case the figure is at best disingenuous and at worst simply false.

- Another Key Consideration plan shows that the area is entirely outside the Urban Renaissance Employment Zone, so it cannot claim that as a justification for permission being granted. It does, however, result in the loss of an oxbow lake, with the consequent loss of all the natural habitat that this provides. In this context, I am puzzled as to why the site map at Appendix 4 of the Habitat Survey is headed "Phase 1" and specifically excludes the oxbow lake from the survey, whereas the site map in the Planning Application includes it, the cut and fill plan shows that it will be filled in, and the key considerations plan confirms that most of it will thereby be lost. This must inevitably be the most bio-diverse part of the site and surely it is essential that a full Habitat Survey of it should be carried out to establish the degree of harm to wildlife habitat that would be caused by its loss. The present survey report refers to it only as being "adjacent" to the proposed works, which is incorrect.
- The plan includes provision for 361 parking spaces. The Transport Assessment suggests that the majority of evening peak time traffic will mostly leave the site via Royd Ings Avenue, Alston Road and into Bradford Road roundabout, with 76 peak hour movements (plus 16 into Beechcliffe roundabout - total 92). This does not reconcile either with the number of parking spaces of 361, or with the 150 jobs said to be created and I suggest is therefore rather on the low side. Whilst there may be a small number of cyclists, the likelihood of anyone walking the full length of Royd Ings Avenue in order to catch a bus on Bradford Road is surely negligible, in which case car usage to and from the site will be almost universal.
- The assessment also doesn't consider movements throughout the day - which will presumably mostly be of LGVs serving the warehouse units - nor does it consider the difficulties of entering Bradford Road roundabout from Alston Road with an LGV, given that this particular entry point is not signalled, unlike the rest of the roundabout - a point not brought out in the TA. Realistically, however, departing vehicle movements - both car and LGV - are at least as likely to take the shortest route to the A629, using Royd Way where, after overcoming the difficulty of joining the major road they will add to the existing congestion by travelling down Hard Ings Road towards Bradford Road roundabout. The matter of Beechcliffe roundabout being signalled as part of the Hard Ings Road highways improvements is almost irrelevant to this application since there is no direct access to it for outgoing traffic from the site. It is regrettable that the full Highways Consultation assessment will not be available for public scrutiny prior to the closing date for public comment.
- There is plenty of underused brownfield space around this areas, it is far preferable to develop these areas and protect the greenfield space which can never be replaced once lost, and appears to be disappearing fast in this area and increasing amounts of development and housing are approved.
- We moved to Riddlesden (from Shipley) two years ago, and were delighted to find a long stretch of riverside flower meadows, with kingfishers and other hard-to-find birds, just a walk away. A flood plain wildlife habitat that should be preserved as it is. And now they want to build on it. Castlefields Industrial Estate appears underused - please correct me if wrong - and would be even better.

- The environmental report states that this area is a site where a variety of wildlife species feed and hunt - some of which are on the UK's protected species list. The site is directly next to a pond housing several rare plants and opposite an area set aside for breeding wild birds. The development will negatively influence, perhaps even destroy these areas.
- As the spread of development increases in size from urban areas I feel we should be very, very careful when destroying though developing in such natural 'hinterlands'. Does this need to be situated here? Why on an undeveloped green site? The adjacent industrial estate has several empty units currently being advertised. As an allotment owner in a nearby site for over 6 years, I have seen vacancies in the existing industrial estate that could support the additional business proposed in this planning application.
- Our town can be seen to be on a borderline between the less developed land further up the Airevalley and the more developed areas towards Leeds and Bradford. Our area has a responsibility to not negatively interfere with the flood plain and influence drainage to waterways. The localised floods in Stockbridge and near Beechcliffe in the past years (not to mention those in Leeds) have shown that this relationship is very sensitive balance.
- As a house owner in Beechcliffe where one waterway already runs, I feel scared that the route of the water runs through this site due for development. The environmental report states that the proposed site is under a high risk of flooding, and should it be developed it would negatively influence the water table in neighbouring areas.
- I have significant concerns about this development, particularly from an ecological viewpoint. The ecological survey report identifies the proposed site as having importance for mammals and birds. As a near neighbour to the site, I am aware of the presence of several bat species, including Daubenton's and pipistrelles, sparrowhawks, tawny owls, jays, woodpeckers and a wide range of small birds. The land is also used by wintering geese of various species. Toads and frogs are common on the land the other side of the river and there is an active Toad patrol group in Riddlesden. The Aire valley corridor is a well known migration route in Spring and Autumn and I am aware that an osprey was seen flying over the valley in recent years. Any development that reduces the amount of open green space and foraging/ hunting/ resting spaces would, in my view be significantly detrimental to the ecology of the area.
- The Leeds Liverpool canal conservation area is designed to protect the environment and views from the canal, and this development would have a significant impact on this.
- No consideration seems to have been given to the impact of the outlook from the houses that overlook the site i.e those in Riddlesden on High Cote, Scott Lane West, Scott Lane, Dunkirk Rise, Western Avenue and nearby roads.
- I am on the committee of a local Angling Club, (Keighley Angling Club) who own the stretch of the river Aire to the rear of this proposed development. The stretch was purchased in 1982 on behalf of its members from George Hattersley and Sons. The conveyance concludes it is a sole and several fishery, with fishing rights and profit a prendre in the said river Aire and in the land over which the river runs.

- It is a real shame that we have not been consulted on this as we manage this bank of the river from Utley to Stockbridge and only found out when we were contacted by one of our extremely concerned members?
- Also I'd like to draw your attention to the ecology report attached to the application item:4.2.3 which states "Efforts should be made to retain and protect this habitat, particularly as any negative effects on this area could have adverse effects on the River Aire."
- Any storage of water which is discharged once the levels reduce could affect our rights to fish unhindered

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

- The proposal represents an over intensive development of the land; there are an excessive number of buildings for the site area and this will result in the impression being given of one huge roof.
- Worse, this over intensive development will be emphasised by the buildings being raised above the flood plain; the drawings suggest a ground level to eaves height of over 13 metres (or 42 feet in Imperial measure). Compared with a normal industrial unit height of 10.5 metres, this means these warehouses will be 2.5 m (over 8ft) higher - and this adjacent to open country and the river.
- The Supporting Information Existing and Proposed View submissions only cover the North and the South East. There should have been a similar submission showing the effect to the South West.
- The proposed development would result in the loss of precious natural river bank habitat.
- The submission inaccurately claims that "only" 53% of the development is within the greenbelt.
- The present survey report refers to the oxbow wetland only as being "adjacent" to the proposed works, which is incorrect. In addition, the Habitat Survey was carried out in October 2016 and therefore cannot have adequately established the true extent of wildlife, flora and fauna on the site. A full survey at a more appropriate time, during the summer and this time including the oxbow lake, would yield widely differing results.
- The Transport Assessment understates traffic impact and does not include consideration of the implications of increased usage of each of the available routes to the A629.
- On behalf of Keighley Ramblers I would like to object to this application as we are sure any industrial development here will greatly increase the risk of flooding in the area.
- It will also damage the natural environment as well as encroach on green belt land.
- And though the plans suggest a public footpath around the perimeter of the site to replace the current path going through the proposed site, all the local footpaths would inevitably over time suffer and deteriorate from the development and flooding to such an extent that walkers would stop taking what is now a pleasant walk across green fields.
- There are still brown field sites available within the Keighley area which should be used for industrial development first.

**Consultations:**

**Airedale Drainage Commissioners (ADC)**

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

**Biodiversity**

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

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

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

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

*Locally Designated Sites*

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

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

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

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

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

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

and;

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

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

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

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

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

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

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

The Lead Local Flood Authority (LLFA) is a statutory consultee on matters relating to surface water management on all major developments only. The LLFA also has a role to monitor and manage flood risk from other sources of flooding. As such, the LLFA has reviewed the submitted documentation of the planning application, against the requirements of the National Planning Policy Framework, Planning Practice Guidance,

Local Planning Policy and other relevant regulations with regards to flood risk from all sources. Further to this assessment the LLFA OBJECT to the proposals because the application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary to Tables 1 and 3 of the Practice Guide to the National Planning Policy Framework. The proposals are classified as 'Less Vulnerable' and as such are not permitted within Flood Zone 3b. Furthermore, the proposals conflict with policy EN7: Flood Risk of the Councils Core Strategy Publication Draft in that it fails to safeguard potential to increase flood storage provision and improve defences within the Rivers Aire corridor. The LLFA therefore recommends the application is refused based on these fundamental National and Local planning policy contraventions.

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

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

***National Planning Policy Framework***

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

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

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

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

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

***Hydrology***

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

a large amount of flood water and the details submitted have not shown how this displacement of water will be compensated within the site boundaries of the application.

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

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

#### *Surface Water Disposal*

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

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

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

- We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.
- Practice Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3b (functional floodplain) defined by the Practice Guide to the NPPF as having a high probability of flooding.



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

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

- We have reviewed the information submitted and we maintain our objection to the proposal. Our comments provided in our previous response dated 30 October 2017 remain valid and are included below for clarity.
- We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.
- Practice Guidance to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. In this case the application site lies within Flood Zone 3b (functional floodplain) defined by the Practice Guide to the NPPF as having a high probability of flooding.
- The development type in the proposed application is classified as 'Less Vulnerable' in accordance with table 2 of the Practice Guide to the NPPF. Tables 1 and 3 of the Practice Guide to the NPPF make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

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

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

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

- The site lies within the Airedale Landscape Character Area (see CBMDC SPD (Supplementary Planning Document): Landscape Character Volume 1: Airedale) and is located mostly within the green belt landscape type of “floodplain pasture”, the bottom part of the site is located within the landscape type of “industrial corridor”. Relevant policies include GB1, EN4.
- The overall description in the above SPD of the “floodplain pasture” landscape type states that.....*“The floodplain features as a prominent expanse of flat land covered with fields and hedges with distinctive perpendicular elements of Lombardy poplars. The river is marked by a sinuous line of trees meandering slowly across the plain whilst the canal follows the contours around its northern edge. The transport corridor is visible stretching across the floodplain. The railway passes close in to the valley side along the southern edge of the pastures and the A629 cuts up the areas of pasture and passes on a wide raised embankment straight through from Keighley to Sipton. The landform gives a very definite boundary to the area, and the lack of development illustrates the direct and uncomplicated link that still exists between the physical landscape and the land use.”* The visual prominence and enclosure is described as prominent and open.....*“The large area of flat land is prominent from all the major transport routes running through it as well as from the valley sides. Though surrounded by valley slopes the landscape has an open character.”*
- In the above SPD the strength of character of the “floodplain pasture” is described as strong.....*“Large, flat, hedgerow-bounded fields are very distinctive within this landscape.”* and the condition noted as declining, the policy guidelines for the area are to conserve and restore the landscape character.....*“Conserve this unique area of distinctive open floodplain pasture. Prevent development of this landscape and the encroachment of urban influences such as lights, road ‘improvements’ etc.....Conserve the farmed land use, traditional agricultural practices and field pattern.....Conserve and restore hedgerows with management and replanting.....Enhance corridor of A629 through sensitive, low key, tree and hedgerow planting.....Encourage low intensity farming which could allow for creation or restoration of meadows.”*
- The SPD policy guidelines regarding the potential for development also state that.....*“With strong character, high historic continuity and being prominent and open this landscape is very sensitive to change; and the fact that there is virtually no historic pattern of development here would indicate that any development could only be detrimental to the landscape character. In addition there are no other expansive areas of floodplain in the District and once its open, undeveloped character is breached, this distinctive landscape will be lost forever. Should further development be required within this area, it could best be accommodated within a wooded setting on the higher ground south of the railway adjacent to Steeton, Eastburn and Keighley. In this way the principle of building on the valley slopes is continued, and the canal and railway are retained as effective boundaries to the main area of floodplain pastures.”*
- Any proposals within the “floodplain pasture” landscape type would therefore need to look to conserving and restoring the distinctive landscape character of the area and would need to be sympathetic to this important character. We believe that the proposed development would neither conserve nor restore the sensitive landscape character and qualities of the area and that it would contribute to the deterioration of this unique landscape.

- However, if the proposed development is to be considered further at this location, a full Landscape and Visual Impact Assessment would need to be submitted with the planning application in order to fully assess the impact of the proposed development on the Airedale Landscape Character Area green belt and the surrounding environment.

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

The site takes in the Beechcliffe Oxbow Lake which has value as a wildlife habitat and is a designated Bradford Wildlife Area (BWA). This will be largely destroyed if the proposal proceeds to construction. Looking back at historic maps of the area it can be seen that in the 1800's the oxbow lake was a meandering loop of the river. Construction of the Aire Valley trunk road in more recent times appears to have covered some sections of the former river bed, but the section that is left on this site is very clearly seen as a redundant river channel. In that respect, this feature has some historic as well as wildlife value. The Habitat Survey Report states that the Beechcliffe Oxbow Lake is located directly adjacent to the site which is not the case, as the submitted plans show it obliterated by proposed units 2, 3 and 4. I would strongly suggest that the whole of the BWA is retained in its current form and the layout of the site revised accordingly.

The cut and fill operation that will be required to adjust the level across the whole site is a total re-profiling of the landform that will remove all existing vegetation and preclude the retention of any trees. The removal of 170mm depth of the surface across much of the site in order to fill the lower areas which includes the oxbow lake seems counterintuitive to minimising the potential for flooding of the site.

Previous comments submitted in respect of landscape design issues referred to the fact that the site lies within the Airedale Landscape Character Area. This proposal is contrary to the policy of the relevant SPD.

The Visual Impact Statement that has been supplied is in my opinion relatively superficial and a scheme of this calibre demands that a fuller Landscape and Visual Impact Assessment (LVIA) be produced. Without a full LVIA it is simply indefensible to state that *'This document will be used as supporting evidence to demonstrate that that the development would not have any significant detrimental impact on the wider landscape...'*

The conclusion of the supplied Visual Impact Statement states (again) that the development will have minimal impact on existing landscape character. Again I would repeat that there is no substance to this given that it is based on a limited and simplistic appraisal of visual impact, with no consideration of landscape effects. The report also concludes that *'The site offers the opportunity, though a landscape led strategy, to offer a valuable site for the provision of new commercial space on an accessible and sustainable site.'* Had the proposal genuinely been based on a landscape led strategy, the oxbow lake would be retained.

If the site does offer the opportunity for the provision of new commercial space then in my opinion it is in the form of a less extensive development that respects the existing landscape character of this edge of town riverside location.

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

- Natural England advises your authority that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which the South Pennine Moors SPA and SAC have been classified. Natural England therefore advises that your Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the sites' conservation objectives.<sup>1</sup>
- In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the South Pennine Moors SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the Wildlife and Countryside Act 1981 (as amended), requiring your authority to re-consult Natural England.
- We have not assessed this application and associated documents for impacts on protected species.
- If the proposal site is on or adjacent to a local site, e.g. Local Wildlife Site, Regionally Important Geological/Geomorphological Site (RIGS) or Local Nature Reserve (LNR) the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application.

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

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

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

- In regards to the area of search a site which is over 10ha is of such a significant size, I think this makes it at least a District wide level of search. The Core Strategy for example only allocate 30ha of employment land for the next 15 years in Airedale.
- Taking this into account, the following sites are more sequentially preferable:
  - BN/E1.17 - WOODHALL ROAD, THORNBURY
  - BS/E1.7 STAITHGATE LANE NORTH, ODSAL
  - K/UR5.39 BANKLANDS AVENUE EAST, SILSDEN
  - K/UR5.36 HAINSWORTH ROAD, SILSDEN

- The above sites are all within lower to no flood risk zone.
- This does not include a list sites which are not allocated but may be vacant in the District. Something I would expect to see in a sequential assessment.
- Notwithstanding the above, the consideration of the sequential assessment or exception test should not have been undertaken. The NPPF and the supporting NPPG make it clear applications 'less vulnerable development' are not appropriate in Flood Risk Zone 3b.
- Like the NPPF, the NPPG is a material consideration in the determination of planning applications. The NPPG is there to provide further detailed information to the contents of the NPPF, and thus hold the same status and weight in the determination of applications.
- If the application were to be approved it may be called in by the Secretary of State as a departure to the development plan as it's within the Green Belt, and the EA also have call in powers due to the flood risk issue.

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

- Records indicate a number of public footpaths will be affected by these proposals as marked purple, blue and red on the plan below. Routes marked purple (namely Keighley Public Footpaths 11 and 12) are legally recorded on the Definitive Map. Routes marked blue (Keighley 718 and 699) are non-definitive in that while they may not be legally recorded they are routes that have been accepted by landowners as being public and are regularly used by footpath users. The red route to the west is also known to be un-adopted public highway (which also extends further to the north and south) and the red route to the east is known to have been used predominately in recent years to access the riverside path towards Stockbridge.
- The proposals as submitted will require a legal order to realign the Definitive paths (purple) onto a new route running around and between the commercial units (and along the line of the new proposed drainage channel). Such a legal order is open to public consultation and possible objection and the applicant would be advised to discuss specific requirements at an early stage as such legal orders, once commenced can take in excess of 6 months to process. Please note that at this stage no guarantee can be made that such an order will be successful. The proposals as submitted appear to indicate that the new section of path will run in a narrow corridor in-between the buildings.
- Such a proposal is not something that the Rights of Way Section or footpath users would accept as being a suitable replacement for the existing public right of way. The applicant is requested to either amend the plans to make any use of the path more appealing i.e. to redesign the site layout so that the path runs through a wide landscaped green corridor or alternatively looks to divert the route fully around the perimeter of the site i.e. along the western and northern edge of the site. This would connect the end of Keighley 718 with the river side path Keighley 699 at the north eastern edge of the site.
- This proposal should be designed to allow the path to run in a green corridor in conjunction with revised landscape proposals. Other than the section alongside the bypass the path should feel more open on at least one side and in-turn should allow the applicant to address any site security measures as already raised by the Police. Any new section of path should be provided at a minimum width of 2m running with

in the green corridor (minimum width of 5m) and ideally should include a surface of crushed stone.

- As regards the proposed development we are aware that parts of the land already flood and this helps form part of an area up the valley that is used as a flood plain. Access to the existing paths in the area can at times be restricted due to the flooding and while it is noted that the development will look to address some flooding/drainage issues through design there is a concern that any building on this site, is going to add to flooding problems.
- This is likely to cause further problems to the footpaths as well as adding to flooding issues in the Stockbridge area. There is also a concern that proposals to cut and fill will add to the problems as existing low level areas tend to retain flood water for some time after river levels elsewhere have dropped. This in turn may create flooding issues on sections of path not currently affected by flood water. It should also be noted that flooding in previous years has caused damage to the river bank both within the site boundary and along the stretch of path towards Stockbridge.
- In places this has required minor realignment of the path, tree planting to help stabilise the river bank and revetment work to the footpath. Again building on this flood plain and any subsequent alterations to the flow of water is likely to have an adverse impact on the river bank and subsequently the footpath. Many years ago the Environment Agency had looked at doing works to the river bank to the rear of Royd Ings Avenue but due to the costs the works were never carried out. As such the Rights of Way Section would also request that the developer contributes a financial sum towards the upkeep of the river bank and footpath both within the site and along the footpath link to Stockbridge. This funding will go towards works to include, vegetation clearance, riverbank stabilisation works including tree planting, revetment and minor surfacing.
- In addition it is noted that the walked line of K699 does not follow the top of the river bank but is currently some 10-15m in land and while it is noted that the proposed units will be stepped back from the river it is essential that a buffer strip is retained to ensure that access to the path can remain in the event of further river erosion or future changes to the line of the river. It is suggested therefore that a buffer strip of at least 20m is retained along the edge of the existing riverbank.
- At this stage the Rights of Way Section are unable to support these proposals but would be willing to discuss our requirements further if required.
- If planning permission is granted please ensure that the applicant is made aware of the need to adhere to the standard requirements during the period of any works on site.

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

- The revised proposals appear to have acknowledged the need to divert sections of public footpaths Keighley 11, 12 and a short stretch of footpath 699. This process will need to be done by legal order. Such an order will most likely be pursued under section 257 of the Town and Country Planning Act to enable any development to take place. Any order is open to public consultation and possible objection; as such the Rights of Way Section is unable to guarantee if an order will be successful. Applications can take 6-18 months to determine so the applicant is advised to discuss specific requirements with the Rights of Way Section at an early stage to avoid delays. Any new section of path will also need to be constructed to a standard

acceptable to the Council and may include other improvements to facilitate any diversion.

- With respect to the plans as submitted I do have slight concerns regarding the proposed section of new path running to the rear of unit number 4, ideally any new path should run through a wide green corridor but it is noted that this section of path to the site boundary will run directly adjacent to that unit, while this is less than ideal any landscaping works should try to ensure the path retains an open feel at that point and that any restriction in width is kept to a minimum. It should be noted that the width of the new footpaths to be provided should have a minimum width of 2m and be inclusive of a crushed stone surface.
- The Rights of Way Section still have concerns regarding the use of this land for development due to any possible adverse effect on the flood plain and the loss of historic landscape features in the area. While it is noted that the existing footpaths are subject to occasional flooding we would like to ensure that these proposals do not add to flooding problems within this site and at other locations in the area as noted in my original comments. As such we would be guided by any comments my colleagues in Drainage will make on these proposals.
- With respect to the riverside path it is noted that it is retained in a green corridor however we would still like to ensure that the applicant is asked to commit to carrying out works to help stabilise the river bank, as this will help limit future erosion, as river bank erosion may in the future adversely affect access to the riverside public right of way. Such works should include the riverbank within the site boundary and a commitment to improve the riverbank to both the north and south of the site. Any landscaping proposals should include proposals for these works.
- If planning permission is granted please ensure that the applicant is made aware of the need to adhere to the standard footpath protection requirements during the period of any works on site.

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

- Looking at the site plan, this appears very permeable in that there is unrestricted access around all of the units and parking areas, with no defensible space for each individual unit.
- I would recommend that any rear boundary treatments for each unit are to a height of 2m in order to provide more security and to restrict access around the rear of the units. These could be a closed welded mesh fencing which allows surveillance into the site and the surrounding area, (suitable standards are to LPS 1175 security rating 2 or above). Defensible planting such as hawthorn, blackthorn can also provide boundaries to certain areas of the site where more greenery or natural borders are required.
- I don't know what the intention will be for this industrial area, such as opening hours or the types of business. I would recommend that there be access control on the entrance to each site such as manual lockable gates. Gates can be left open during operational hours but locked when the businesses are closed which will prevent any strangers or potential offenders from accessing the car park and attempting crime or anti-social behaviour activities within the parking area.
- Where parking is directly adjacent to the units or entrance doors it would be prudent to install knee railing fencing along the fronts of the parking bays to prevent any

vehicles from either accidentally or deliberately driving into the front of the units or doors to gain entry.

- External lighting should be installed to cover the parking bays, footpath routes leading to the building and each entrance into the units. Suitable types of lighting are photo cell or dusk until dawn lighting which are energy efficient and cost effective to use. I would ensure that lighting levels are good enough to allow for visibility and surveillance but are not excessively bright which could cause light overspill.
- PIR / sensor lighting is not recommended as sensors can be knocked off balance which can disable the lights from working allowing an offender an opportunity to commit crime and remain unseen. If there is a constant light there is more chance to see any person acting suspicious or loitering in the area which can be reported to the Police.
- I would recommend installing monitored CCTV to cover the areas above, including any internal areas where required. CCTV should work in unison with the proposed lighting plan and provide good quality evidential images which are worthy for identification purposes.
- Any doors or windows should look to achieve security standards; PAS 24:2012, LPS 1175 issue 7 SR2 and STS 201 / STS 202 Issue 3 BR2. Aluminium door sets and windows can achieve PAS 24 standards in addition to BS 4873:2009.
- Any shutters that cover delivery areas should look to achieve standards; LPS 1175 issue 7 security rating 1 or STS 202 issue 3 SR 1 or above.
- Bradford District are still experiencing a high level of euro cylinder crimes where the lock is snapped or the area around the locking mechanism is melted to expose the lock barrel, which is then snapped by the offender allowing entry into a building. Some of the standards that are recommended by Building regulations can include euro cylinder locks which are 1 star rated which can be breached. If there are any doors being installed which include a euro cylinder lock, the lock should be checked to ensure that it is 3 star rated and achieves TS007 or Sold Secure Diamond Standard which offer more resistance to these types of attacks.
- Depending on the use of the units or how many staff will work within each unit (there are no floor plans at this stage to view), it may be that access control is required on the main entrance doors such as swipe card or key fob access this should be security encrypted to prevent any unauthorised copying. If an external intercom system is required, these should be vandal resistant and include colour CCTV and audio capabilities to allow visitors to contact any staff.
- The plans show that there are voids underneath the units which have mesh grill which are fitted to address flooding issues. What is the height / width of the grill and how will this be fixed? From a crime perspective I would want to ensure that any potential offender could not gain access underneath the units by removing the mesh grills which causes damage or types of criminal damage such as arson.
- I would recommend installing intruder alarms within each unit which have door contacts fitted to entrance doors or delivery doors / shutters, this will provide additional security for each unit. Suitable standards are to NSI (National Security Inspectorate) or SSAIB (Security System and Alarms Inspection Board). BS EN 50131 or PD6662 (wired alarm system) or BS 6799 (wire free alarm system).



- Alternatively if intruder alarms are not being provided by the Developer, installing a 13 amp spur point is a cost effective measure to apply and will allow any tenant the option of purchasing their own intruder alarm.
- Whilst there is no objection in principle to the application West Yorkshire Police are unable to support the proposal in its present form.

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

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

#### ***Yorkshire Water***

- It appears from the submitted site layout that buildings will be sited over the public sewerage system located within the site. This could seriously jeopardise Yorkshire Water's ability to maintain the public sewerage network and is not acceptable. We therefore OBJECT to the development layout as currently shown. I strongly advise that, prior to determination of this application, the site layout is amended to allow for adequate protection of the sewers.
- The details submitted on drawing 207 dated September 2017 that has been prepared by MADP are NOT acceptable to Yorkshire Water. The following points should be addressed:
- the submitted drawing appears to show a building proposed to be built-over the line of public sewer crossing the site the submitted drawing should show the site-surveyed position of the public sewer crossing the site the submitted drawing should show the required building stand-off from public sewer -- or an agreed alternative scheme
- If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), he should contact our Developer Services Team at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition as supplemented by Yorkshire Water's requirements.
- On the Statutory Sewer Map, there is a 750mm diameter public surface water sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme.
- In this instance, a stand-off distance of 4 (four) metres is required at each side of the sewer centre-line.

**Summary of Main Issues:**

- 1) Green Belt
- 2) Floodplain
- 3) Landscape
- 4) Ecology
- 5) Rights of Way
- 6) Access, Highways and Air Quality
- 7) Community Safety Implications
- 8) Equality Act 2010, Section 149

**Appraisal:**

**1) Principle**

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

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

The NPPF confirms at paragraphs 87 and 88 that:

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

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

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

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

- To check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

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

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

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

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

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

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

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

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

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

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

After giving due consideration to, and placing substantial weight upon, the harm the development would cause to the Green Belt, as described above, the advice of Planning

Officers to the Regulatory and Appeal's Committee is that, the benefits of developing the land for employment purposes do not clearly outweigh the harm the development would cause to the Green Belt, either when considering Green Belt harm in isolation or in combination with the harm the development would cause to the functional floodplain, to the character of the landscape and to a local wildlife site. Therefore the development is considered to be unacceptable in principle.

## **2) Floodplain**

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

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

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

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

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

The application proposes an inappropriate use within the functional floodplain (Flood Zone 3b) contrary with policy EN7: Flood Risk of the Councils Core Strategy in that it fails to safeguard the potential to increase flood storage provision and improve defences within the River Aire corridor. The River Aire and the settlements alongside it suffered significant

flooding during December 2015 and therefore existing floodplains are being investigated to determine if they could offer greater flood risk benefits within the River Aire corridor. The development of this part of the functional floodplain with industrial sheds could inhibit the delivery of any future initiatives to alter the land in a way which would provide greater flood benefits for the River Aire Corridor.

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

- *BN/E1.17 - WOODHALL ROAD, THORNBURY*
- *BS/E1.7 STAITHGATE LANE NORTH, ODSAL*
- *K/UR5.39 BANKLANDS AVENUE EAST, SILSDEN*
- *K/UR5.36 HAINSWORTH ROAD, SILSDEN*

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

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

The applicant has not robustly demonstrated that the proposed development would fully mitigate flood risks, has not demonstrated that such techniques would be viable in this instance (no development appraisal/ viability assessment has been submitted despite a request for this information) and has not demonstrated that there is no other reasonably available development land within either Airedale or the wider District. Furthermore the use of unconventional building techniques does not alter the national planning guidance position that functional floodplains should not be built upon and does not obviate the need

to pass the sequential and exceptions test, as set out in the NPPF and Core Strategy Policy EN7.

The Environment Agency have also confirmed that they maintain their objection to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. The Environment Agency recommend that the application should be refused planning permission on this basis. It is therefore considered that the development is also unacceptable in principle in relation to national and local policies pertaining to developing land at risk of flooding and in particular to developing land defined as functional floodplain.

### **3) *Landscape***

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

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

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

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

In the above SPD the strength of character of the “floodplain pasture” is described as strong.....”Large, flat, hedgerow-bounded fields are very distinctive within this landscape.” and the condition noted as declining, the policy guidelines for the area are to conserve and restore the landscape character.....” Conserve this unique area of distinctive open floodplain pasture. Prevent development of this landscape and the encroachment of urban influences such as lights, road ‘improvements’ etc.....Conserve the farmed land

use, traditional agricultural practices and field pattern.....Conserve and restore hedgerows with management and replanting.....Enhance corridor of A629 through sensitive, low key, tree and hedgerow planting.....Encourage low intensity farming which could allow for creation or restoration of meadows.

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

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

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

The conclusion of the supplied Visual Impact Statement states that the development will have minimal impact on existing landscape character. However the Council's Landscape Architect advises that there is no substance to this given that it is based on a limited and simplistic appraisal of visual impact, with no consideration of landscape effects. The report also concludes that 'The site offers the opportunity, though a landscape led strategy, to offer a valuable site for the provision of new commercial space on an accessible and sustainable site.' Had the proposal genuinely been based on a landscape led strategy, the oxbow lake would be retained.

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

#### **4) Ecology**



Core Strategy policy EN2 states that proposals should contribute positively towards the overall enhancement of the District's biodiversity resource. They should seek to protect and enhance species of local, national and international importance and to reverse the decline in these species. The Council will seek to promote the creation, expansion and improved management of important habitats within the district and more ecologically connected patchworks of grasslands, woodlands and wetlands. Core Strategy policy EN5 confirms that, in making decisions on planning applications, trees and areas of woodland that contribute towards the character of a settlement or its setting or the amenity of the built-up area, valued landscapes or wildlife habitats will be protected.

Opportunities for specific habitat creation within development proposals will be sought, including provision for future management. Development which would cause serious fragmentation of habitats, wildlife corridors or have a significantly adverse impact on biodiversity networks or connectivity will be resisted. Paragraph 109 of the NPPF confirms that one of the government's objectives for the planning system is to minimise impacts on biodiversity and provide net gains in biodiversity where possible.

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

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

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

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

The Council's Biodiversity team have advised that, given the significant impact that this proposal appears to have on a designated Local Site and, potentially on supporting habitat of the South Pennine Moors SPA, and the absence of any detail as to how these impacts will be avoided or mitigated, it is not possible to support this application in its current form and, from an ecological and biodiversity viewpoint. Although the applicant has now supplied further proposals for ecological enhancement and mitigation, including Native tree & bush planting, Wildflower grass areas, Bird boxes, Bat boxes/ bricks, Hedgehog houses and Damp marginal wildflower areas, there is no evidence that these provisions would be sufficient to effectively mitigate the ecological harm which would be caused by the development. The proposal is therefore considered to be contrary to Core Strategy Policy EN2.

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

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

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

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

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

With respect to the riverside path it is noted that it is retained in a green corridor. However the Council's Area Rights of Way Officer has requested that the applicant is asked to

commit to carrying out works to help stabilise the river bank, as this will help limit future erosion, as river bank erosion may in the future adversely affect access to the riverside public right of way. Subject to these improvements being secured there is no longer considered to be any reason to refuse planning permission in relation to the developments' impacts on the public rights of way network.

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

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

The Council's Highways Development Control team have been consulted on the application and have raised a number of queries regarding the quantum of development and the parking levels to be provided. The Highways Development Control team have confirmed that until this information is provided a full highway assessment cannot be made. Therefore as it stands insufficient information has been provided to make a full highway assessment of the application contrary to Core Strategy Policies TR1 and TR2.

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

Although the application does include a Transport Assessment and Travel Plan framework these documents do not adequately provide for measures to off-set or mitigate the adverse air quality and greenhouse gas emissions impacts of the development. An Air Quality Assessment has also now been submitted which includes an assessment of the air quality impacts of the development and concludes that these will not be significant, subject to mitigation. However the Council's Environmental Health Air Quality team have reviewed this document and have indicated that they have remaining concerns, particularly in relation to specific locations where modelling work is currently predicting that levels are already approaching or exceeding air quality objectives and will be made worse if the development proceeds without substantial air quality mitigation.

The validity of this modelling work and some of the assumptions made are still under review. The most effective form of mitigation would be to ensure that all vehicles accessing the development site had a minimum Euro 6 emission standard but at present the impact and practicality of implementing such mitigation has not been fully explored or

reported on by the applicant. A period of air quality monitoring in the area (minimum of 6 months) and re-modelling of the air quality impacts based on the use of Euro 6 vehicles only at the development site would help to determine if this application can be delivered with an acceptable level of air quality emission mitigation.

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

**7) Community Safety Implications:**

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

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

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

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

**Reasons for Refusing Planning Permission:**

- 1) The proposal is for inappropriate development within the Green Belt. The economic benefits which may result from the development are not considered to counterbalance the harm the development would cause to the Green Belt, either when considered in isolation or in combination with the other harm the development would cause. The proposal is contrary to saved policy GB1 of the Replacement Unitary Development Plan and Section 9 of the National Planning Policy Framework.
- 2) The proposal is for development within the functional floodplain which is not essential infrastructure and is not a water compatible use. Neither the sequential test nor the exceptions test are passed. The proposal is contrary to Core Strategy policy EN7 and Section 10 of the National Planning Policy Framework.
- 3) The development would unacceptably harm the character of the local landscape contrary to Core Strategy Policy EN4.

- 4) The development would result in the destruction of an Ox-bow wetland, which is designated as a locally important nature conservation site, and contains insufficient information to demonstrate that the development would not adversely affect the South Pennine Moors SPA through loss of supporting habitat, contrary to Core Strategy Policy EN2.
- 5) The proposals do not incorporate adequate measures to mitigate or offset the development's emissions and impacts, in accordance with the Low Emission Strategy for Bradford and associated guidance documents, the development will not deliver a positive impact on air quality in the district in areas where air quality is a matter of concern and the development is likely to exacerbate air quality beyond acceptable levels contrary to Core Strategy Policy EN8(A).
- 6) Insufficient information has been provided to make a full highway assessment of the application contrary to Core Strategy Policies TR1 and TR2.