

# **Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of Regulatory and Appeals Committee to be held on 17th September 2020**

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## **Subject:**

Detailed planning application for swale to serve adjoining site, as approved under ref. 17/04591/MAF: Demolition of steel-framed agricultural building, agricultural shed and the residential development of 133 dwellings with associated infrastructure works and access.

## **Summary statement:**

The proposed swale is located within Green Belt, as identified in the Proposals Map of the RUDP. Policy GB1 would apply, where development would only be given where the openness of the Green Belt is preserved and the development would not conflict with the purposes of including land within the Green Belt. The openness of the Green Belt would be preserved by the development and the development would not be in conflict with any of the purposes of including land within Green Belt. The application is recommended for approval.

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

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

## **1. SUMMARY**

The proposed swale has been considered against Green Belt policy and the impact on preserving the openness of the Green Belt and whether or not it would conflict with the purposes of including land within the Green Belt. It is considered that the swale would preserve the openness of the Green Belt and it would not conflict with the purposes of Green Belt. The application is recommended for approval subject to condition.

## **2. BACKGROUND**

The application is reported to Committee, due to the history of contentious developments at this site. The proposed development is connected to adjacent residential development that was considered by the Regulatory and Appeals Committee and in this case Officers consider this application should similarly be determined by the same Committee rather than be determined under the provisions of delegated powers.

## **3. OTHER CONSIDERATIONS**

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

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

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

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

No implications.

## **6. LEGAL APPRAISAL**

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

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

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

### **7.2 SUSTAINABILITY IMPLICATIONS**

None.

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

No impact.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

None

### **7.5 HUMAN RIGHTS ACT**

Article 6 - right to a fair and public hearing. The Council must ensure that it has

taken into account the views of all those who have an interest in, or whom may be affected by the proposal.

**7.6 TRADE UNION**

None

**7.7 WARD IMPLICATIONS**

None

**7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS**

None

**7.9 IMPLICATIONS FOR CORPORATE PARENTING**

None

**7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

None

**8. NOT FOR PUBLICATION DOCUMENTS**

None

**9. OPTIONS**

The Committee can approve the application, as per the recommendation, or refuse the application. If the application is refused, reasons for refusal based on material planning grounds and with reference to adopted Council planning policy and or national planning policies would have to be given.

**10. RECOMMENDATION**

To approve the application subject to conditions.

**11. APPENDICES**

Appendix 1 Technical report.

**12. BACKGROUND DOCUMENTS**

National Planning Policy Framework 2019

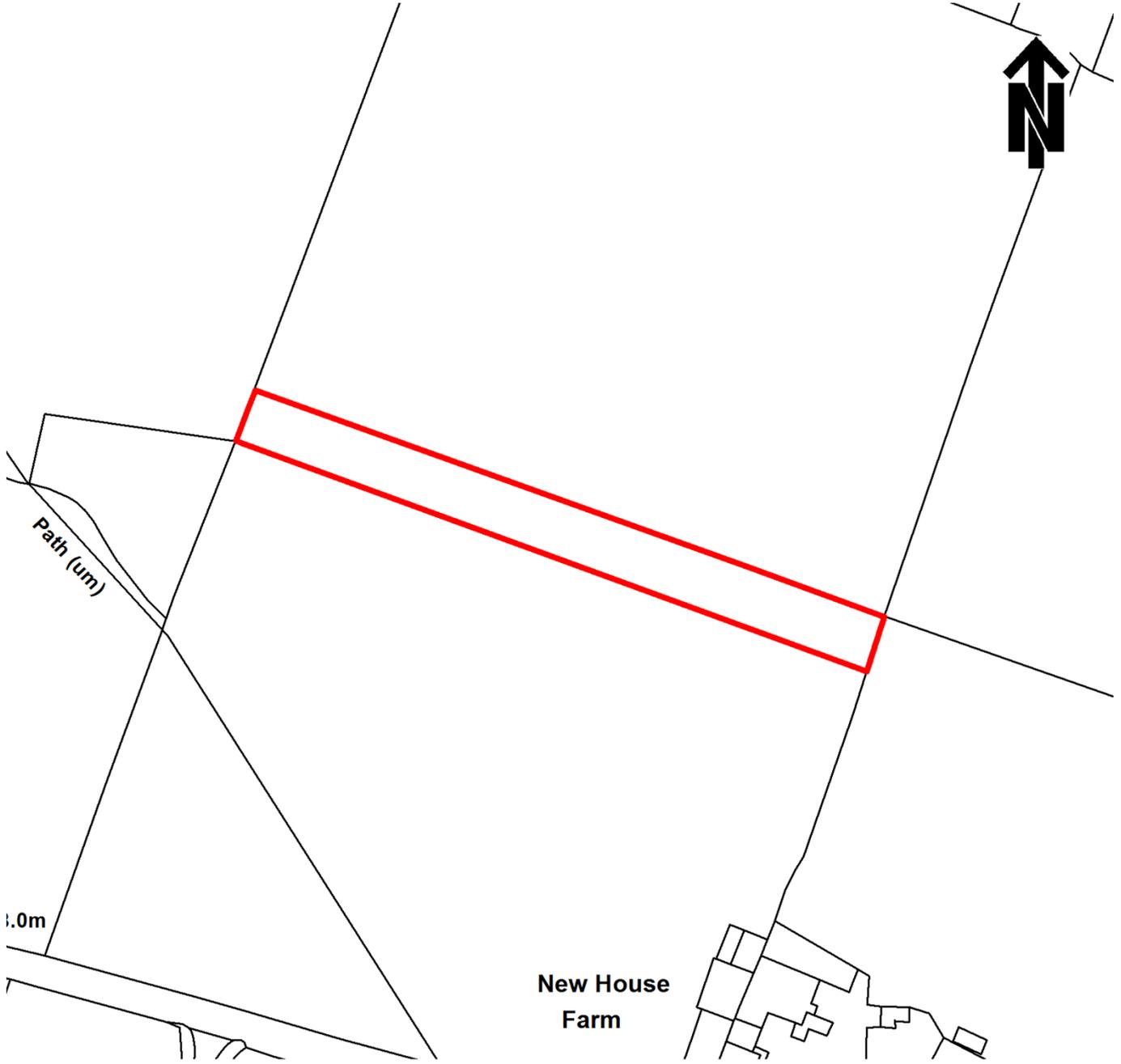
RUDP 2005

Core Strategy 2017

19/05299/FUL



City of  
**BRADFORD**  
METROPOLITAN DISTRICT COUNCIL



1:1,250

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**Land At Grid Ref 416775 443424**  
**Bingley Road**  
**Menston**  
**Ilkley**

## **APPENDIX 1**

### **Ward**

Wharfedale

### **Recommendation**

To approve subject to conditions.

### **Application No.**

19/05299/FUL

### **Type of application**

Detailed planning application for swale to serve adjoining site, as approved under ref. 17/04591/MAF. Demolition of steel-framed agricultural building, agricultural shed and the residential development of 133 dwellings with associated infrastructure works and access.

### **Applicant**

Bellway Homes (Yorkshire Division)

### **Agent**

Johnson Mowatt

### **Site Description**

The application site is located within a field, north of New House Farm, Menston. The site sits towards the lower part of the slope. To the immediate north of the application site is a site under construction for housing, by the applicant, Bellway.

### **Background**

The application site is located to the southern boundary of a site at Bingley Road granted planning permission for 133 houses, 17/04659/MAF. The planning permission has been implemented and construction of the houses has started.

Whilst the proposed swale was outside of the red line application site for the above mentioned housing development, the swale formed part of the drainage strategy to serve the proposed housing development. Consequently, the applicant has submitted an application specifically for the construction of the swale.

The Committee is advised that the application is the subject of a call-in request (application made to the Secretary of State asking him to intervene in the decision making process for this application). However, the MHCLG has confirmed that in general, it would not look at a case in detail until after the Committee has considered the application and then only if they were minded to approve an application. It is requested that a decision notice (following the committee meeting) is not issued until the Secretary of State has had the opportunity to determine whether or not to call-in the application. In the event that Members resolve to grant planning permission then such a resolution together with full details of the application and this committee report would be sent to the MHCLG to enable it to complete the process as soon after the committee date as possible.

### **Relevant Site History**

None

## **RUDP**

Policy GB1 except in very special circumstances planning permission will not be given within the Green Belt as defined in the Proposals Map for development purposes other than:

- 1) Agriculture and forestry, essential facilities for outdoor sport and outdoor recreation, cemeteries; or
- 2) for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it.

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

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Green Belt serves five purposes: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are: a) mineral extraction; b) engineering operations; c) local transport infrastructure which can demonstrate a requirement for a Green Belt location; d) the re-use of buildings provided that the buildings are of permanent and substantial construction; e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.

## **Publicity and Representations**

The application was advertised through site notices and in the local press. There has been 1 letter of objection.

## **Summary of Representations Received**

The proposal is contrary to the presumption that Green Belt will not be subject to development or works ancillary to development unless there are "exceptional circumstances".

The work on swales in the Green Belt should be stopped immediately and the ground reinstated so that the swales do not carry surface and groundwater into the local drainage system, which is already overloaded.

## **Consultations**

### Parish Council

Objects to the swale development which is development in the Green Belt. The objection relates specifically to the geological conditions which exist at the development site and the groundwater emergence to which the site is subject.

### Drainage

Bradford Drainage Services does not have any objections to the proposed development. The development should proceed in accordance with the OVERLAND SWALE DETAIL, Dwg No. 40338/062/A.

## **Summary of Main Issues**

Principle of development

Drainage/flooding

### **Appraisal**

Principle of development

As outlined in para. 146 of the NPPF, there are a number of types of development that are not considered inappropriate in the Green Belt, including engineering operations, provided they preserve its openness. The construction of a swale would be classed as an engineering operation. Consequently, it has to be adjudged whether or not the development would preserve the openness of the Green Belt and whether or not it was in conflict with the purposes of Green Belt.

The proposed swale would be c.110m in length, c.5m in width and c.1.6m in depth. The swale would be located abutting the southern boundary of the housing development under construction at Bingley Road. The swale would be located c.130m from Bingley Road.

In terms of visual impact, due to the topography, the swale would not be visible from Bingley Road. It would not be visible from the housing to the north or east due to housing being constructed and precluding any view of the swale. A public footpath runs from Bingley Road across the field and again due to the sloping nature of the land, the swale would only be visible from limited views when walking the footpath.

At the site of the proposed swale, the Green Belt is not open, as there is a housing development under construction, within 3m of the swale. As such, the Green Belt is seen at this location as an open field between New House Farm and the housing site. The housing site being defined at its southern boundary, by a timber fence. The proposed swale would be some 3m from the boundary of the housing site. The swale where it is seen, would comprise of a grassed channel, below ground level. Whilst development would be extended beyond the housing site, due to the nature of the swale and its proximity to the housing development, it is considered that the proposed development would preserve the openness of the Green Belt.

In terms of not conflicting with the purposes of including land in the Green Belt, as the development is not for a building or structure but engineering operation, it is considered that the development would not conflict with the purposes of including land in the Green Belt.

### Drainage

The proposed swale is part of a drainage system that controls surface and groundwater on the site. In the determination of application 17/04581/MAF, the applicant submitted hydraulic modelling information of the proposed drainage system, which included the swale, to show how the site would be developed and not increase flood risk elsewhere. Based on the evidence and analysis presented by the applicant and their representatives, it was accepted that the site is at low risk of flooding from all sources including groundwater. It was also accepted that the proposals for management of water on the site do not increase the risk of flooding to external receptors. The swales hydraulic performance and its contribution to controlling runoff outside of the site boundaries has therefore been analysed and are agreed.

**Options**

The Committee can approve the application as recommended, or refuse the application. If the application is refused, reasons for refusal based on material planning grounds and with reference to adopted Council planning policy and or national planning policies would have to be given.

**Community Safety Implications**

None

**Human Rights Act**

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

**Not for publication documents**

None

**Reason for Granting Planning Permission:**

The proposed swale has been considered against the NPPF and Policy GB1 of the RUDP. The proposal would not be inappropriate development in the Green Belt and would preserve the openness of the Green Belt. It would therefore be in compliance with both national and local policy.

**Conditions of Approval:**

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

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