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## Appeal Decision

Site visit made on 27 November 2019

**by Mike Hayden BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 April 2020**

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**Appeal Ref: APP/W4705/W/18/3217011**

**Land at Holme Mill Lane, Keighley, West Yorkshire BD22 6BL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Javi Khanijau of MSK Law against the decision of City of Bradford Metropolitan District Council.
  - The application Ref 16/08422/MAO, dated 14 October 2016, was refused by notice dated 31 May 2018.
  - The development proposed is the construction of up to 102 dwellings, access roads and 90-bed nursing home with relocation of scout hut.
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### Decision

1. The appeal is allowed and outline planning permission is granted for the construction of up to 102 dwellings, access roads and a 90-bed nursing home with the relocation of the scout hut on land at Holme Mill Lane, Keighley, West Yorkshire BD22 6BL in accordance with the terms of the application, Ref 16/08422/MAO, dated 14 October 2016, subject to the conditions set out in the schedule at the end of this decision and the S106 unilateral undertaking referred to below.

### Application for costs

2. An application for costs was made by Coshore Holdings Ltd against the City of Bradford Metropolitan District Council, which is the subject of a separate Decision.

### Procedural Matters

3. The planning application originally sought permission for the construction of up to 116 dwellings and a 150-bed care home, together with the relocation of the existing scout hut. However, this was amended during the application process to up to 102 dwellings and a 90-bed nursing home, with the relocation of the scout hut. The amended description is the scheme on which the Council made its decision and is used in the decision notice and the appeal form. Accordingly, I have determined the appeal on this basis.
4. The application was submitted in outline with matters relating to layout, appearance and landscaping reserved for subsequent approval. The scale of the proposed development and access are the only detailed matters fixed for determination as part of the appeal. I have dealt with the appeal on this basis. An indicative site layout plan was submitted with the appeal. I have taken this plan into account, in so far as it identifies the broad extent of development and open space proposed and the site for the relocation of the scout hut, to inform my assessment of the impacts of the proposal.

5. The appeal site lies approximately 4.2 kilometres (km) from the South Pennine Moors Special Protection Area (SPA) and Special Area of Conservation (SAC), where it has the potential to create adverse impacts on the SPA and SAC through increased recreational pressure. As required under the Conservation of Habitats and Species Regulations 2017 (the Regulations), the Council undertook an Appropriate Assessment (AA) of the implications of the proposed development for the conservation objectives of the SPA and SAC. However, the Council did not consult with Natural England (NE) on the AA for the application, but relied on NE's response to the Habitats Regulations Assessment (HRA) undertaken for the Bradford District Local Plan Core Strategy (2017). To ensure the Regulations have been complied with in assessing the proposal for the purposes of this appeal, I have sought the views of NE, as the appropriate nature conservation body, on the Council's AA for the proposed development and taken NE's response into account in this decision.
6. A unilateral undertaking under S106 of the Town and Country Planning Act 1990 was submitted by the appellant, comprising a planning obligation to secure a financial contribution of £25,000 as mitigation for recreational pressures on the SPA and SAC. It was executed as a deed and signed by the landowner, Coshore Holdings Ltd, and constitutes a material consideration, which I have taken into account in reaching my decision.

### **Development Plan**

7. The relevant parts of the statutory development plan for this appeal are the Bradford District Local Plan Core Strategy (2017) (the CS) and the saved policies of the Bradford Replacement Unitary Development Plan (2005) (the RUDP). The eastern section of the appeal site on which the nursing home and scout hut are proposed is allocated for employment development, site K/E1.7, under saved Policy E1 of the RUDP. It is also identified on the Proposals Map as being within a Bradford Wildlife Area, known as the North Beck wildlife corridor, site K/NE9.57 in the RUDP, to which Policy EN2 of the CS is also relevant.
8. The western part of the appeal site was allocated as a Phase 2 housing site, K/H2.40, in the RUDP. Policy HO2 of the CS states that the dwelling targets for the district will be met through deliverable and developable sites allocated for residential development in the RUDP. However, Policies H1 and H2 of the RUDP, relating to Phase 1 and 2 housing sites, were not saved by the Secretary of State in 2008 or when the CS was adopted. Nevertheless, the Council has confirmed that unimplemented former Phase 2 housing sites should be protected to meet the district's housing needs.
9. The Council is preparing a Partial Review of the CS and an Allocations Development Plan Document (DPD). Preferred Options for the Partial Review were subject to consultation in summer 2019 and consultation on the Allocations DPD was due to start in early 2020. Both remain at an early stage and will be subject to examination and possible main modifications, with adoption scheduled in the Local Development Scheme (LDS) for the end of 2021. I have dealt with the appeal in the light of this adopted and emerging development plan context. I explain below the weight I have accorded to the relevant policies.

## Main Issues

10. The Council is currently unable to demonstrate a 5 year supply of deliverable housing sites against the housing requirement in the adopted Bradford District Core Strategy (2017) (the CS)<sup>1</sup>, as required by paragraph 73 of the National Planning Policy Framework (the Framework). In such circumstances, footnote 7 of the Framework establishes that the policies of the development plan which are most important for determining the application are out-of-date. As such paragraph 11d) of the Framework applies in this case.
11. In view of this, and having regard to the Council's reasons for refusal and the appellants grounds for appeal, together with representations from local residents and other interested parties and my own assessment on site, the main issues in this appeal are – whether or not the policies of the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed, or whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, with particular regard to:
- The effect of the proposed development on the character and appearance of the site and surrounding area, including the effect on the landscape of the North Beck valley and the potential loss of woodland and protected trees;
  - The effect of the proposed development on wildlife and ecology, including within the South Pennine Moors SPA and SAC and the Bradford Wildlife Area;
  - The effect of the proposed development on the setting of the Grade 2 listed Intake Farmhouse;
  - The effect of the proposal on local community assets;
  - The effect of the proposed development on the operation and safety of the highway network;
  - Whether the proposal is viably able to contribute to the need for affordable housing; and
  - The benefits which may arise from the proposed development, including its contribution to the shortfall in the housing land supply.

## Reasons

### *Landscape, Character and Appearance*

12. The appeal site is located on the edge of the built up area of Keighley and on the northern side of the North Beck valley. It wraps around two sides of the Holme Mill industrial estate, which lies to the north of the site within the valley adjacent to the North Beck. To the south and south-east of the site, at the top of the valley, is residential development either side of Holme Mill Lane and fronting Fell Lane, which forms part of the urban area of Keighley. To the west and north-west are fields forming part of the landscape of the North Beck valley. On the north side of the valley towards the crest of the slope is further housing marking the urban edge of Keighley.

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<sup>1</sup> Table 5.1 of the City of Bradford Five Year Housing Land Statement for 2018-2023 (March 2019)

13. The site comprises two main parts - an open field to the west of Holme Mill Lane behind the houses fronting Fell Lane, and a woodland to the east of Holme Mill Lane. A narrow tongue of land containing a line of mature trees connects the field with Holme Mill Lane. Public footpath 73 runs along the northern boundary of the woodland leading down to the North Beck. To the south of the woodland, a third parcel of land comprising a scout hut and an area of amenity open space off Wingate Avenue/Way completes the site.
14. The North Beck valley to the west and north of the site forms part of the designated Worth and North Beck Valleys Landscape Character Area (LCA), which is defined in the City of Bradford Landscape Character Supplementary Planning Document (SPD). Policy EN4 of the CS expects development proposals to make a positive contribution towards the conservation, management and enhancement of this landscape, using the approach set out in the SPD. The appeal site lies outside of the LCA, but the western field is adjacent to its boundary. The introduction to the Landscape Character SPD expects that planning applications on sites near the boundary of a LCA should take into account the implications of the proposal on the adjacent character area.
15. The areas of the LCA adjoining the site are defined in the SPD as 'mixed upland pasture', comprising a dense patchwork of small fields, relatively simple in character and settled only on their edges. The western field is composed of a gently sloping plateau on its upper level to the rear of the properties on Fell Lane, and a section of steeper gradient as the land falls away into the North Beck valley. The character and appearance of this part of the appeal site reflects that of the 'mixed upland pasture' within the adjacent LCA and appears continuous with it.
16. Based on the indicative site layout, the appeal proposal would urbanise the western part of the appeal site and alter its character from open valley landscape to a suburban residential estate. On the upper plateau of the field the dwellings would extend the settlement edge further into the North Beck valley. But subject to suitable layout, appearance and landscaping, which could be controlled by condition at the reserved matters stage, housing on this part of the site could be accommodated without undue harm to the adjoining LCA, which is already characterised by settlement at its edges.
17. However, the proposed residential development would continue down the side of the North Beck valley, finishing just above the valley floor. This portion of the site is particularly visible from public footpath 18, where it crosses the North Beck valley to the north and west. Whilst Holme Mill industrial estate forms part of the context in these views, its buildings are partially screened by mature trees. But, due to the gradient of the lower section of the field, landscaping would do little to mitigate the urbanising effect of residential development on this more exposed part of the site at the density proposed, when viewed from the opposite side of the valley. As such, it would be unsympathetic to the mixed upland pasture of the adjacent LCA and thereby cause harm to the landscape character of the North Beck valley.
18. I recognise that the allocation of the whole of the western part of the appeal site for housing in the RUDP indicates an acceptance by the Council of residential development across the site. However, Policy DS2 expects development proposals to work with the landscape to reduce the environmental impact of development. The scale of residential development proposed on the lower section of the valley side would conflict with this policy objective.

19. The appeal proposals would result in the loss of a number of trees which are subject to a Tree Preservation Order (TPO), in order to create access to the site and accommodate the indicative layout. The main impact, at this outline stage, would be on the trees either side of Holme Mill Lane, which would need to be removed to form the three access points into the site. However, whilst there would be some loss of amenity as a result, the majority of the trees lining Holme Mill Lane would be retained and any effects would be on localised views. For protected trees within the site, the indicative layout suggests some would be lost, but most would be retained, including the veteran trees identified by the Council within groups G6, G7 and G8.
20. Furthermore, layout and landscaping are reserved matters. As such the removal of protected trees could be controlled through conditions and mitigated by replacement planting to be satisfied at the reserved matters stage. On this basis, the amenity value offered by the TPO would be substantially preserved. Accordingly, subject to appropriately worded conditions, the proposal would comply with criterion D of Policy EN5 of the CS in respect of protected trees.
21. The eastern part of the site contains an area of semi-natural broadleaf woodland. It is estimated that approximately 40% of this would be lost to make way for the proposed nursing home, scout hut and associated parking and circulation areas. This could in part be mitigated by the enhancement of tree cover within the retained area of woodland on this part of the site, but the appellant accepts that there would be a net tree loss<sup>2</sup>.
22. In terms of its effect on the character of the area, the woodland contributes to the landscaped setting of this part of Keighley, particularly in views from the north side of the North Beck valley. The introduction of a multi storey nursing home building into this setting would affect those views. However, the building would be seen within the surrounding tree canopy, which would help to screen and soften its impact. It would also be read in the context of the adjacent industrial estate to the north-west, which provides a comparable urban form of large buildings within landscape. In addition, the site is allocated for employment development within the RUDP, which indicates an acceptance that further large buildings would be appropriate in this location. For these reasons, proposed development on the eastern part of the site would not cause undue harm to the character and appearance of the landscaped setting of Keighley.
23. Policy EN5 of the CS seeks to preserve and enhance the contribution that areas of woodland make to the character of the district. Although the proposed nursing home would result in a net loss of woodland contrary to criterion C of Policy EN5, it would still maintain the character and setting of the settlement at this point in conformity with criterion A1 of Policy EN5.
24. The proposal would also result in the loss of the area of amenity open space around the scout hut, which currently provides a visual break between areas of housing off Holme Mill Lane and Wingate Avenue/Way. However, the indicative layout suggests it would be possible to set dwellings back from the Holme Mill Lane frontage to retain some green space within the street scene. This is a matter which could be controlled by condition, with an appropriate layout agreed at the reserved matters stage, to respect the existing pattern of development and character of the area, in line with Policy DS3 of the CS.

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<sup>2</sup> Paragraph 1.17 of Ascerta response to the comments of the Tree Officer – October 2019

### *Ecology and Wildlife*

25. An Ecological Appraisal was submitted with the appeal. It was based on surveys of habitats and protected species on the appeal site and adjacent land in the appellant's ownership. The eastern part of the site is designated as part of the Bradford Wildlife Area (BWA) due principally to the value of its broadleaf woodland as a UK priority habitat and its potential to provide foraging and nesting/roosting opportunities for birds and bats. However, the surveys revealed that the section of woodland proposed to be removed for the nursing home is of poor quality ecologically, with limited structural diversity, species poor, no features suitable for use by roosting bats, a sparse field layer and few features suitable for the less common, hole dwelling bird species. As such it is considered to be of low potential for roosting bats and nesting/breeding birds. I have seen no survey evidence from the Council to alter this conclusion.
26. The appeal site contains a range of other habitats, including improved grassland on the western field, areas of scattered scrub, hedgerows and tall ruderal and ephemeral vegetation, none of which contain species that would justify selection as a Local Wildlife Site. No protected species were recorded on the site, although it does provide some suitable habitat for badgers and hedgehogs, as well as bats and breeding/nesting birds, which the appraisal suggests could be enhanced through a habitat management plan (HMP) for the remaining woodland area, hedges, trees and off-site habitats. The North Beck also contains habitat for water voles, otter and crayfish, but the proposed development would not be close enough to the Beck to cause any harm to its habitats. The proposed limits of development would also avoid any adverse impact on the connectivity of the wildlife corridor along the North Beck.
27. Overall, therefore, notwithstanding the BWA designation for part of the appeal site, there is little evidence to demonstrate that the proposed development would have a significant adverse effect the site's ecological value nor cause harm to protected species. However, Policy EN2 of the CS expects that development should not result in an overall loss of habitat by either avoidance, mitigation or provision of compensatory habitats.
28. Given that the proposal would result in the loss of around 0.37 hectare of broadleaf woodland habitat, albeit of poor quality, the appellant proposes mitigation and compensation through a HMP with measures to enhance the ecological value and species diversity of the retained area of woodland on site, and the habitats on land within the appellant's ownership off-site on the north side of North Beck. A HMP would quantify the measures and provide an implementation and management timetable for them. It could be secured by condition, with the details subject to the Council's approval as part of the reserved matters. I consider this would ensure an appropriate means for the mitigation and compensation of any habitat loss.
29. The appeal site is also located approximately 4.2km from the South Pennine Moors SPA and SAC European Site. Policy SC8 of the CS identifies residential developments within 7km of the SPA/SAC boundaries as having the potential to create adverse impacts on the integrity of the SPA/SAC through increased recreational pressure. Policy EN2 of the CS states that any development likely to have a significant effect on a European Site will be subject to an assessment under the Habitats Regulations.



30. The Council undertook an Appropriate Assessment (AA) of the implications of the proposed development for the conservation objectives of the SPA/SAC. The South Pennine Moors are designated for protection and conservation as the largest area of unenclosed moorland in West Yorkshire. The qualifying features for the SAC are its representation of five Annex 1 habitat types, including dry and wet heaths, bogs, mires and woodlands, and for the SPA the range of breeding birds it supports, including Merlin and European golden plover.
31. The South Pennine Moors are accessible for walking. Given their distance from the appeal site, the scale of the development proposed and the relative lack of publicly accessible open space proposed on the appeal site itself, it is likely that future occupiers of the residential development would visit the moors for recreational purposes. Potential adverse impacts on the SPA/SAC would be increased disturbance to bird species, including ground nesting varieties, and the erosion of and/or damage to protected habitats from increased visitor and recreational activity by walkers and dogs.
32. Policy SC8 requires the potential for such adverse impacts to be effectively mitigated by the provision of alternative accessible natural green space or other measures to deflect pressure from the moorland habitats. The Council considers that the most effective way of mitigating the recreational impacts of the proposed development would be to improve local public rights of way (PRoW), so that residents can more easily access amenities closer to the site, deflecting pressure away from the SPA/SAC. The PRoW include Keighley footpaths 18, 73 and 268 across the North Beck Valley and footpath 22 towards Holme House Woods and Goose Eye. A sum of £25,000 is considered by the Council to be sufficient to re-surface these routes and improve stiles, gates and signage along their length.
33. The completed S106 unilateral undertaking submitted by the appellant includes a planning obligation to pay a financial contribution of £25,000 for this purpose prior to the commencement of the proposed development. Natural England has confirmed that it is satisfied the proposed mitigation is sufficient to reduce the impacts in order to maintain the integrity of the European site and its qualifying features. The trigger for the payment of the financial contribution would allow sufficient time for the Council to carry out the footpath improvements prior to the occupation of the proposed development. Accordingly, I am satisfied that the proposal would not result in a significant effect on the SPA and SAC.
34. On this basis, I conclude that, subject to the proposed mitigation measures, the effects of the proposed development on wildlife and ecology would be acceptable, including on habitats and protected species within the Bradford Wildlife Area and the South Pennine Moors SPA and SAC. As such it would comply with Policies SC8 and EN2 of the CS. The resulting absence of any significant harm to biodiversity or significant effects on the SPA and SAC would also comply with paragraph 175 of the Framework.

#### *Setting of Listed Building*

35. Intake Farmhouse is a grade 2 listed building, dating from the 17<sup>th</sup> century, located on the north side of the North Beck valley adjacent to Keighley footpath 18. It is positioned on the valley side, surrounded by open fields, with views from the front of the farmhouse across the valley to the south. The field on the western part of the appeal site forms part of the landscape in this view.

36. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 establishes that in exercising planning powers on behalf of the Secretary of State in this appeal, I must have special regard to the desirability of preserving a listed building or its setting. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced and confirms that its setting may contribute to the significance of a heritage asset.
37. The open valley landscape of the North Beck provides the setting in which Intake Farmhouse is experienced and contributes to its significance as a heritage asset, in terms of its historical role and aesthetic value. The proposed residential development on the western field would encroach into the valley landscape. It would be clearly visible from the public footpath adjacent to the farmhouse and cottage. As such it would diminish the undeveloped character and openness of the landscape in which the listed building is experienced, thereby harming the setting and significance of the heritage asset.
38. As the impact would be on the setting rather than the fabric of the listed building itself, the harm to its significance would be less than substantial. Paragraph 196 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal. I consider this below as part of the overall planning balance.

#### *Community Assets*

39. In support of the first reason for refusal, the Council's appeal statement identifies three areas of land which are considered to be assets that benefit the local community and would be lost as a result of the development. These are the fields west of Holme Mill, the greenspace around the scout hut off Holme Mill Lane and the woodland on the eastern part of the site. In addition, significant concerns have been raised by local residents and the 1<sup>st</sup> Keighley Fell Lane Scout Group about the potential loss of the existing scout hut.
40. The appeal scheme proposes to replace the scout hut within the site. The indicative layout plan shows this would be in a position further to the north, adjacent to the proposed nursing home. Whilst the location may be a little further along Holme Mill Lane, it would still be convenient to surrounding residential areas and bus stops on Fell Lane. It would also offer comparable facilities, with car parking on site and green space. There is little evidence to support the view that the scout hut would be overlooked by the adjacent nursing home, based on the indicative layout and the illustrative floor plans in the Design and Access Statement. Nevertheless, this could be avoided by ensuring the satisfactory design and siting of both buildings at the reserved matters stage, which could be controlled by condition. The re-provision of the scout hut, and the retention of the existing facility until the new one were available, could also be made a condition of any planning permission to ensure the provision of the community facility is maintained.
41. With regard to the fields to the west of Holme Mill Lane and the woodland on the eastern part of the appeal site, both areas of land are in private ownership, with no evidence of public rights of way across them. Whilst the local community may have accessed them at the landowner's discretion, they are not designated as formal or informal public open space. Public footpaths 18 and 73 providing access to and across the North Beck would be unaffected. As such, there is little evidence before me to support the view that the proposed development would result in the loss of informal recreational facilities on these two parts of the site.



42. I acknowledge that the development of housing on the upper level of the western field would affect views of the North Beck valley enjoyed by occupiers of dwellings on Fell Lane. However, these are private views, which the planning system does not exist to protect. I have dealt with the effect of the proposal on public views of the landscape within the North Beck valley above.
43. The Tinker recreational area lies beyond the northern boundary of the appeal site. Although not a recognised community facility within the development plan, from the evidence supplied it appears to be well used by local residents, with access across private land from public footpath 18. However, the proposed development would stop short of the Tinker and not affect public access to it. Rather the financial contribution proposed in the S106 undertaking would upgrade footpath 18 and the surrounding footpaths, enhancing access to the Tinker and to the North Beck corridor.
44. Accordingly, I find that the proposed development would not cause any material harm to or loss of local community assets. It would replace the scout hut and green space within the development, upgrade public access to the Tinker and North Beck corridor and enhance the retained woodland. As such it would conform with Policy SC6 of the CS which supports a network of green infrastructure, including the river corridors. It would also accord with paragraphs 92 and 98 of the Framework in avoiding the loss of valued community facilities and protecting and enhancing public rights of way.

#### *Highway Safety*

45. Details of the means of access to the site are for determination as part of this appeal. The third reason for refusal maintains that the proposed points of access/egress, by reason of their layout and proximity, would have a severe impact on highway safety. However, the plans and Transport Assessment submitted by the appellant show that adequate visibility can be achieved for the proposed accesses on either side of Holme Mill Lane for the speed of traffic using the road, based on the guidance in Manual for Streets 2 (2010). Although the resulting junctions would be less than 60m apart, this is the standard for main road junctions and Holme Mill Lane is not a main road. The consultation response from the highway authority confirms that the proposed access arrangements are acceptable. I find no basis to disagree.
46. The proposed development would result in an increase in traffic. I note the concerns expressed by local residents about the existing levels of traffic on Holme Mill Lane and Fell Lane. However, given the modest number of additional trips forecast to be generated by the proposed development, its impact on the operation of the road network would not be severe.
47. New and improved footways are proposed on either side of Holme Mill Lane, from the junctions with Durrance Street and Wingate Avenue/Way to the site entrances and to the access to footpath 73. This would ensure safe passage for pedestrians to the scout hut, residential development and nursing home and to the walking route across the North Beck.
48. The site is within acceptable walking distance of local shops, services and community facilities, including the nearest primary school. There are also regular bus services to and from the centre of Keighley operating from bus stops on Fell Lane. As such, the accessibility of the site by sustainable modes of travel should reduce the need for future occupiers and users of the development to travel by car in accordance with Policies TR1 and DS4 of the CS.

49. Paragraph 109 of the Framework states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. There is no substantive evidence for me to reach such a conclusion. Rather, on the basis of the evidence submitted and my own assessment on site, I conclude that the proposed development would be acceptable in terms of its impacts on highway safety and the operation of the road network.

### *Affordable Housing*

50. Policy HO11 of the CS seeks up to 15% of dwellings as affordable housing in Keighley on sites of 15 units or more, subject to viability. The appeal proposal does not include any provision for affordable housing. This is justified by a Financial Viability Assessment (FVA)<sup>3</sup> submitted by the appellant, which demonstrates the proposed development could not viably support any affordable housing. The FVA has been subject to an independent review on behalf of the Council<sup>4</sup>. The review confirms that the methodology and assumptions used in the FVA are reasonable. It concludes that the provision of affordable housing would render the proposed development unviable.
51. Criterion E of Policy HO11 allows that where an applicant can provide robust, up to date and verifiable evidence to support the view that a site would be unviable if affordable housing targets are required, then the exact amount of affordable housing will be determined by economic viability. The evidence submitted demonstrates that no amount of affordable housing would be viable.
52. Therefore, in the absence of any alternative financial viability evidence, I conclude that the appeal scheme would not be viably able to support any affordable housing. Accordingly, although there remains a need for affordable housing in Keighley, the proposal would comply with Policy HO11 of the CS.

### *Benefits*

53. The appeal proposal would deliver up to 102 market dwellings. The latest housing land statement<sup>5</sup> confirms the current supply of deliverable housing sites in Bradford district amounts to only 2.06 years, with a shortfall of 10,604 dwellings against the 5 year housing land requirement in the adopted CS. I note that the emerging Partial Review of the CS proposes a lower housing requirement of 1,700 dwellings per annum (dpa), using the standard methodology, compared to the current figure of 2,476dpa. However, the Partial Review is at an early stage and remains subject to further consultation, examination and possible main modifications, with adoption not scheduled until the end of 2021. Housing sites are to be identified in an Allocations DPD being prepared alongside the Partial Review, but likewise that is at an early stage. Paragraph 48 of the Framework establishes that weight may be given to policies in emerging plans according to the stage of preparation. Given the early stage the Partial Review is at, it can be afforded little weight in determining the district's housing requirement for the purposes of this appeal.
54. Therefore, based on the current 5 year housing land supply assessment, Bradford district has a substantial shortfall in its housing land supply. Although the appeal proposal would not offer any affordable housing, given the scale of

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<sup>3</sup> Financial Viability Assessment for Holme Mill Lane, undertaken by Jackson Webb, dates 22 September 2017

<sup>4</sup> Review of FVA of proposed development at Holme Mill Lane, by Cushman Wakefield, 29 January 2018

<sup>5</sup> City of Bradford MDC Five Year Housing Land Statement April 2018 to March 2023, dated 1 March 2019

the shortfall in the overall housing land supply, the provision of up to 102 dwellings on the appeal site would be a valuable social benefit in helping to meet the need for market housing in Keighley. It would make a useful and timely contribution to reducing the shortfall in the district and would support the Government's objective of significantly boosting the supply of homes set out in paragraph 59 of the Framework.

55. The proposal would also deliver a 90-bed nursing home, providing specialist accommodation for older people. The CS identifies the provision of a range of appropriate housing for Bradford's older population as a major strategic challenge<sup>6</sup>. Policy HO8 places a particular emphasis on the need for specialist accommodation for older people in suitable locations. The appeal site is an accessible location and therefore suitable for this form of accommodation. As such, the proposed nursing home would make an appropriate contribution to meeting that need, providing a important social benefit to the district.
56. The nursing home would also generate employment opportunities, estimated to be 20 full-time and 10 part-time jobs, which would provide an economic benefit to Keighley. Although they have not been quantified, it is reasonable to assume that further economic benefits would also be derived from the construction phase of the development, in terms of jobs and local sourcing, and, once the development is occupied, from additional spending in local shops and services by future residents of the proposed housing.

#### *Other Matters*

57. Policy ID3 of the CS expects development proposals to contribute towards the costs of providing infrastructure and meeting social and environmental requirements. The proposal would provide a new scout hut, contribute £25,000 towards the improvement of public rights of way to mitigate recreational disturbance in the South Pennine Moors SPA/SAC, provide public open space on site and upgrade the footways on Holme Mill Lane.
58. Beyond that, the Council's officer report refers to requests for financial contributions of £111,963 towards school places and £142,344 for the provision or enhancement of recreational open space and playing fields off-site. Policy ID3 states that the nature and scale of contribution will be determined having regard to the capacity of existing infrastructure, the potential impact of the development on surrounding facilities and economic viability. Representations from local residents express concerns about the potential impact of additional housing on school places and healthcare services. However, there is no evidence before me from infrastructure or service providers to substantiate this or to quantify the capacity of existing infrastructure. The FVA also demonstrates that there is no scope for the proposed development to viably support further S106 contributions beyond that required for mitigating recreational disturbance. On this basis I am satisfied that the proposal would contribute towards the cost of local infrastructure as far as it is viably able to. As such it would comply with Policy ID3 of the CS. The proposed financial contribution would also meet the tests for planning obligations set out in paragraph 56 of the Framework.
59. The proposed development would change the outlook for occupiers of neighbouring properties, including those on Wingate Avenue/Way, Thorncliffe Road and Fell Lane. However, the indicative layout plan shows that dwellings

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<sup>6</sup> Paragraph 5.3.115 of the Bradford Core Strategy (2017)

on the appeal site could be positioned and orientated with adequate separation distances to ensure no unacceptable loss of privacy, daylight or sunlight and that the resulting outlook would not be overbearing. As layout and dwelling design are reserved matters, the effect on the living conditions of the neighbouring residents could be controlled by the Council at that stage.

60. A number of concerns have also been raised about the impact of the increase in traffic on air quality. However, the accessibility of the site to local services by more sustainable modes of travel would help to reduce the need for car journeys. In addition, the provision of electric vehicle charging points for each proposed dwelling, as recommended in the Council's officer report, would support the transition to electric vehicles locally and help to reduce pollution from road transport emissions in line with Policy SC2 of the CS. This could be secured by condition.
61. The Flood Risk Assessment submitted with the appeal confirms that the site falls outside of Flood Zones 2 and 3 and therefore in an area with the lowest risk of flooding. Subject to an appropriate drainage system to attenuate surface water run-off, which could be secured by condition, the proposal would not increase the risk of flooding elsewhere. Accordingly, it would satisfy the expectations of paragraphs 158-163 of the Framework in respect of flood risk.

### **Planning Balance**

62. As explained in paragraph 10 above, because the Council cannot currently demonstrate a 5 year supply of deliverable housing sites, the presumption in favour of sustainable development paragraph 11(d) of the Framework applies in this case. This means granting permission for the proposal unless:
- i. the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
63. Policies in the Framework which protect habitats sites, such as SPAs and SACs, and designated heritage assets, such as listed buildings, are included in paragraph 11(d)(i)<sup>7</sup>. With regard to the South Pennine Moors SPA and SAC, I have concluded that the footpath improvement measures secured by the obligations in the S106 unilateral undertaking would be sufficient to mitigate the adverse impacts of the increased recreational pressures arising from the proposed residential development on the SPA and SAC, such that there would be no significant effects.
64. With regard to the Grade 2 listed Intake Farmhouse, I have concluded that the harm to the significance of the heritage asset would be less than substantial. In such circumstances, paragraph 196 of the Framework requires that the harm should be weighed against the public benefits of the proposal. Although the harm would be less than substantial and to the setting of the listed building, given the statutory duty to preserve a listed building or its setting, I must give considerable weight to that harm.

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<sup>7</sup> By virtue of footnote 6 to the NPPF

65. The public benefits of the proposal include the provision of up to 102 dwellings and a 90-bed nursing home. Given the size of the shortfall in the housing land supply in the district and the length of time before further allocations are likely to come forward under the Partial Review to address that shortfall, the provision of over 100 additional housing units carries significant weight as a social benefit in addressing the local need for housing in Keighley over the next 5 years. In circumstances where the need for specialist accommodation for older people is a major strategic challenge for Bradford, the provision of a 90-bed nursing home is a social benefit which should also be accorded significant weight. In addition, the jobs and investment the development would contribute to the local economy attract at least moderate weight as public benefits.
66. The combination of the public benefits that the appeal proposal would bring are sufficient to outweigh the harm the setting of the listed building. As such the policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the proposed development under paragraph 11(d)(i) of the Framework.
67. Therefore, I turn to the so called 'tilted balance' in paragraph 11(d)(ii) of the Framework. With regard to adverse impacts, in addition to the harm to the setting of the Intake Farmhouse, the proposed residential development on the lower section of the field to the west of Holme Mill Lane would cause harm to the landscape character of the North Beck valley. However, given that public views of this part of the site would be largely limited to PRow within the valley, that development would not encroach into the adjoining Landscape Character Area and that it would be seen in the context of other urban development to the east and south, the visual and landscape harm would be moderate rather than significant, carrying moderate weight in the 'tilted balance'. Although there would be a net loss of woodland on the eastern part of the site, due to the relatively poor quality of the area of woodland to be removed and the potential to partially mitigate this through enhancing tree cover in the retained woodland, the resulting harm to the woodland overall would be limited. As such this carries only a small amount of weight against the proposal.
68. I have concluded that the effects on ecology and wildlife would be acceptable, subject to the proposed mitigation provided by a HMP and S106 contributions. The scout hut would be relocated within the site and there would be no material harm to the recreational and ecological value of the Tinker and North Beck river corridor as community assets. Impacts on highway safety and flood risk would also be mitigated through off-site highway improvements and a surface water drainage system. There would be no material harm to the living conditions of neighbouring occupiers and the proposal would comply with the CS in respect of its impact on local infrastructure. Consequently, given the absence of harm through appropriate mitigation, these factors carry neutral weight in the planning balance.
69. On balance, therefore, in light of the significant weight attached to the social benefits of the scheme, I conclude that the totality of the adverse environmental impacts would not significantly and demonstrably outweigh that of the social and economic benefits of the proposed development, when assessed against the policies of the Framework taken as a whole. Accordingly, under both limbs of paragraph 11(d) of the Framework, the appeal proposal benefits from a presumption in favour of sustainable development.



70. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst under paragraph 11(d) of the Framework the most important policies for determining this appeal are deemed to be out of date, they still carry weight in assessing whether the proposal accords with the development plan.
71. The eastern part of the site is allocated for employment development in the RUDP. Although the allocation of the western part of the site for housing no longer forms part of the development plan, it remains part of the housing land supply which the Council relies on to meet the district's housing needs. I have found that the proposal accords with Policies SC2, SC6, SC8, TR1, HO11, EN2, EN5 (A) and (D), DS3, DS4 and ID3 of the CS in respect of its effects on trees and woodland, urban character, ecology and habitats, green infrastructure, transport and highways, affordable housing, infrastructure and climate change.
72. To the extent that there would be a conflict with the development plan through development within part of the BWA, the loss of habitat would be mitigated and compensated for. Although there remains conflict with Policy DS2 in respect of the effect on landscape character, the harm would be moderate; and whilst the net loss of woodland would not accord with criterion C of Policy EN5, the harm would be limited. On this basis, I conclude that the proposal accords with development plan when considered as a whole.
73. In representations it has been asserted that in the light of the emerging Partial Review of the CS and the potential for a lower housing requirement, granting permission for this proposal would be premature. However, paragraphs 49 and 50 of the Framework state that refusal of planning permission on grounds of prematurity will seldom be justified where a plan has yet to be submitted for examination. The limited circumstances where prematurity may justify refusal are where both the emerging plan is at an advanced stage and the proposal is so substantial, or its cumulative effect so significant, that to grant permission would undermine the plan-making process. Neither of these circumstances apply in this case.

### **Conditions and S106 obligation**

74. The Council submitted a set of planning conditions as part of its appeal statement, which the appellant confirmed are acceptable. An additional condition to ensure the provision of the new scout hut was also suggested by the appellant. I have considered which conditions are required having regard to the tests contained in the Framework and the Planning Practice Guidance. I have revised some of the wording in the interests of clarity and enforceability.
75. Conditions specifying the details of the reserved matters to be submitted for approval are necessary to ensure control over the impact of the development on the character and appearance of the surrounding area in terms of its appearance, landscaping and layout. It is also necessary to set time limits for the submission of the reserved matters and for implementation of the permission in accordance with the requirements of the Act.
76. I have included a condition for the approval of samples of external materials to ensure the appearance of the new buildings is sympathetic to local character. Conditions requiring tree protection measures, specifying the details of the landscaping scheme to be submitted with the reserved matters, and the future

arrangements for landscape maintenance within amenity and recreation areas on the site are all necessary to ensure the development respects the landscape character of the surrounding area and maintains a high standard of visual amenity.

77. In order to ensure there is no loss of community facilities and secure the provision of appropriate replacement and new facilities on site, I have included conditions specifying the retention of the existing scout hut until the replacement is available and to control the details of the design and layout of the new scout hut and the proposed public open space. I have also specified the provision and implementation of a Habitat Management Plan, which is necessary to ensure the enhancement of biodiversity and habitats in line with the CS and the Framework.
78. I have included conditions to ensure the access and off site highway works are completed in accordance with the approved details in the interests of highway safety. A condition requiring electric vehicle charging points is necessary to support the reduction in pollution from road transport emissions in accordance with the development plan. A construction method statement including wheel cleaning of construction vehicles is necessary and reasonable to safeguard the amenities of the occupiers of surrounding properties and ensure highway safety.
79. A condition controlling the quality of material brought onto the site for filling, levels and landscaping is necessary and reasonable to avoid contamination. Likewise a set of conditions to require the remediation of any on site contamination is necessary to avoid contamination of neighbouring land, future users, controlled waters and ecology. A series of drainage conditions are necessary to manage surface water, avoid flood risk elsewhere and ensure sustainable drainage systems are used.
80. Finally a condition is necessary to avoid buildings or landscaping from obstructing water mains running through the site.
81. The permission is also subject to the completed S106 undertaking, dated 22 November 2018, to secure a financial contribution of £25,000 for improvements to local PRow to mitigate the recreational impacts of the proposed development. This accords with the requirements of the development plan and thereby is necessary to make the development acceptable in planning terms. It is also directly related to the development and fairly and reasonably related in scale and kind to it. Accordingly, the deed meets the tests set out in paragraph 56 of the Framework and in regulation 122 of the CIL Regulations 2010 (as amended).

## **Conclusion**

82. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be allowed and outline planning permission granted, subject to the conditions specified in the attached schedule and the S106 unilateral undertaking, dated 22 November 2018.

*M Hayden*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the appearance, landscaping and layout (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters within the application site boundary, as shown on plan ref. 16-1723-01 Rev V, shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Any application requesting approval of the reserved matters of layout or appearance shall include details of existing and proposed ground levels and include drawings showing the following details:
  - i). adequate scaled cross sections of the site;
  - ii). details of the existing and proposed ground levels;
  - iii). proposed finished floor levels of all buildings;
  - iv). levels of any drives, garages and parking areas; and
  - v). height and appearance of all retaining walls or other retaining features.

The development shall be carried out in only accordance with the approved details.

- 5) The details required to be submitted as part of the reserved matters in compliance with condition 1) shall include:
  - i) The proposed layout of buildings, car parking and servicing arrangements, including the replacement scout hut;
  - ii) The proposed elevations and internal floor layouts of buildings, including the replacement scout hut;
  - iii) The layout, landscaping and play equipment proposed for the public open space as shown on indicative layout plan numbered 16-1723-01 Rev Q.

The development shall be carried out only in accordance with the approved details.

- 6) The existing scout hut shall remain in place until the replacement shown on the indicative layout plan has been constructed and is made available for use. The replacement scout hut shall be made available for use before the nursing home becomes operational.
- 7) A methodology for quality control of any material brought to the site for use in filling, level raising, landscaping and garden soils shall be submitted to, and approved in writing by the Local Planning Authority prior to materials being brought to site.
- 8) No development shall take place until the site is investigated for its potential for the use of sustainable drainage techniques in disposing of surface water from the development. Consideration should be given to discharge surface water to soakaway, infiltration system and watercourse in that priority order. Only in the event of such techniques proving impracticable will disposal of surface water to an alternative outlet be considered. In the event of infiltration drainage techniques proving unviable the maximum pass forward flow of surface water from the development shall be restricted to a rate agreed with the Lead Local Flood Authority.

- 9) The development should not begin until a temporary drainage strategy outlining the drainage arrangements for different construction phases of the project has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in strict accordance with the approved temporary drainage strategy.
- 10) The drainage works shall not commence until full details and calculations of the proposed means of disposal of surface water drainage, based on drainage principles that promote water efficiency and water quality improvements through the use of SuDS and green infrastructure to reduce its effect on the water environment, have been submitted to and approved by the local planning authority. The development shall be carried out only in strict accordance with the approved drainage details.
- 11) The surface water drainage infrastructure serving the development shall be managed in strict accordance to the terms and agreements, over the lifetime of the development, as set out in a Surface Water Drainage Maintenance and Management document to be submitted to and approved in writing by the Lead Local Flood Authority.
- 12) The development shall be drained using separate foul sewer and surface drainage systems.
- 13) Before any part of the development is brought into use, the proposed means of vehicular and pedestrian access hereby approved, including the visibility splays, shall be laid out, hard surfaced, sealed and drained within the site, in accordance with plans numbered 16-1723-01 Rev V and 1906-02 Rev A, and completed to a constructional specification approved in writing by the Local Planning Authority. There shall be no obstruction to visibility exceeding 900mm in height within the visibility splays so formed above the road level of the adjacent highway.
- 14) Before any works towards the development starts on site full details and specifications of the works associated with Holme Mill Lane for the provision of footways on both sides of this road leading up to and in between the proposed access locations, including street lighting, shall be submitted to and be approved in writing by the Local Highway Authority. The development shall then not be brought into use until these works have been completed on site to the satisfaction of the Local Highway Authority.
- 15) Prior to the occupation of development full details of a Traffic Regulation Order and any other associated Orders deemed necessary by the Local Highway Authority shall be submitted in writing and agreed by means of a Section 278 Agreement with the Local Highway Authority.
- 16) From the date of first occupation each property built on the site with dedicated parking shall be provided with access to a fully operational 3-pin socket on a dedicated circuit, capable of providing a 'trickle' charge to an electric vehicle (EV). Every other property (with non-dedicated parking) shall be provided with access to a communal EV charging point at a ratio of 1 per 10 properties. Charging points should be provided either within garage space or via outdoor, weatherproof sockets within easy access of the parking areas. All EV charging points shall be clearly marked with their purpose and drawn to the attention of new residents and care home staff in their new home welcome pack/travel planning advice.

- 17) Prior to commencement of the development a Construction Environmental Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must be prepared with due regard to the guidance set out in the London Best Practice Guidance on the Control of Dust and Emissions from Construction and Demolition. It must include a site specific dust risk assessment and mitigation measures that are proportional to the level of identified risk, including full details of arrangements for wheel cleaning of construction vehicles and equipment. The approved CEMP shall be adhered to throughout the construction period.
- 18) Prior to development commencing a Phase 2 site investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The assessment shall be in accordance with a methodology which shall have been previously submitted and approved in writing by the Local Planning Authority. A written report of the assessment, including a remedial options appraisal scheme, shall be submitted to and approved in writing by the Local Planning Authority.
- 19) Unless otherwise agreed in writing with the Local Planning Authority, prior to development commencing a detailed remediation strategy, which removes unacceptable risks to all identified receptors from contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation strategy must include proposals for verification of remedial works. Where necessary, the strategy shall include proposals for phasing of works and verification. The strategy shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.
- 20) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.
- 21) Unless otherwise agreed in writing with the Local Planning Authority, a remediation verification report, including where necessary quality control of imported soil materials and clean cover systems, prepared in accordance with the approved remediation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of each phase of the development (if phased) or prior to the completion of the development.
- 22) Before development above damp proof course commences on site, arrangements shall be made with the Local Planning Authority for the inspection of all external facing and roofing materials to be used in the construction of the development hereby permitted. The samples shall then be approved in writing by the Local Planning Authority and the development constructed in accordance with the approved details.



- 23) The landscaping scheme to be submitted and approved as part of the reserved matters under condition 1) shall include the following details:
- i) Position of all trees to be retained on the site, including any trees planted subject to requirements of previous consents to fell, together with details of fencing and other measures for their protection;
  - ii) Details of proposed new trees and details of new shrub and grass areas – including the extent of such areas and the numbers of trees and shrubs in each position with size of stock, species and variety;
  - iii) The extent, types and heights of the means of enclosure to all curtilages;
  - iv) Details of types of hard surfaces within the development other than those within the domestic curtilages;
  - v) Details of any re-graded contours and details of changes in level required for purposes of landscaping within the site.

The landscaping scheme so approved shall be implemented during the first available planting season following the completion of the development hereby approved and in accordance with the approved details. Any trees or plants comprising the approved landscaping that become diseased or die, or which are removed or damaged within the first 5 years after the completion of planting shall be removed and a replacement using the same or similar species and specifications shall be planted in the same position no later than the end of the first available planting season following the demise of the original planting.

- 24) The development shall not begin, nor shall there be any demolition, site preparation or ground works, nor shall any materials or machinery be brought on to the site, nor any works carried out to any trees that are to be retained on the site until the tree protection fencing and other tree protection measures have been installed in the locations and in strict accordance with the specifications and details to be submitted to and approved in writing by the Local Planning Authority. No ground works, development or demolition shall begin until the Local Planning Authority has inspected and given its written confirmation that the agreed tree protection measures have been installed in accordance with those details.
- 25) Prior to the occupation of any part of the development, a schedule of landscape maintenance for all amenity and recreation open space areas within the site and covering a minimum period of 25 years shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include a plan to define all communal hard and soft landscaped areas to be maintained under the maintenance regime, an outline of maintenance works to be undertaken and the frequency of those works, together with details of responsibilities for implementing the maintenance regime by a Management Company or other agency. It shall provide email, postal address and telephone contact details of such a company or agency. Landscape maintenance of the identified areas shall subsequently be carried out in accordance with the approved schedule for the period agreed.
- 26) Prior to the commencement of development a Habitat Management Plan shall be submitted to and approved in writing by the Local Planning Authority, specifying the areas of habitat to be replaced or enhanced and measures to be used for the protection of species, both on an off-site, within the land owned by the appellant, including the retained woodland, land within the North Beck riparian corridor and the habitats on the north side of the beck, in accordance with measures set out in the Ascerta Ecological Appraisal, dated June 2017.

The Plan shall include a timetable for the implementation and management and the Plan. The development shall be carried out and maintained thereafter in accordance with the Plan.

- 27) No building or other obstruction including landscape features shall be located over or within 6 metres either side of the centre line of the 12" water main i.e. a protected strip width of 12m that enters the site. No building or other obstruction including landscaping features shall be located over or within 5m either side of the centre line of the 300mm water main ie. a protected strip width of 10m that enters the site. No building or other obstruction including landscape features shall be located over or within 3m either side of the centre line of the 150mm water main ie. a protected strip of 6m that enters the site. If the required stand-off distance is to be achieved via diversion or closure of the water main the developer shall submit evidence to the LPA that the diversion or closure has been agreed with the relevant statutory undertaker.