

# CALDERDALE METROPOLITAN BOROUGH COUNCIL

## PLANNING COMMITTEE

### WARDS AFFECTED: MORE THAN THREE

Date of meeting: 7 June 2011

Chief Officer: Head of Planning

#### 1. SUBJECT OF REPORT

APPLICATIONS FOR DETERMINATION RE PLANNING PERMISSION, LISTED BUILDING CONSENT/CONSERVATION AREA CONSENT, LOCAL AUTHORITY APPLICATIONS, CROWN APPLICATION OR CONSENT TO FELL PROTECTED TREES

- (i) Executive Summary
- (ii) Individual Applications

#### 2. INTRODUCTION

- 2.1 The attached report contains two sections. The first section (yellow sheets) contains a summarised list of all applications to be considered at the Committee and the time at which the application will be heard. Applications for Committee consideration have been identified in accordance with Council Standing Orders and delegations.
- 2.2 The second section comprises individual detailed reports relative to the applications to be considered.
- 2.3 These are set out in a standard format including the details of the application and relevant planning site history, representations/comments received arising from publicity and consultations, the officers assessment and recommendation, with suggested conditions or reasons for refusal, as appropriate.
- 2.4 Where the Committee considers that a decision contrary to the recommendation of the Head of Planning may be appropriate then consideration of the application may be deferred for further information
- 2.5 Where a Legal Agreement is required by the Committee, the resolution will be "Mindful to Permit Subject to a Legal Agreement being completed", combined with a delegation to the Head of Planning.

### **3. IMPLICATIONS ARISING FROM REPORT**

#### **3.1 Planning Policy**

These are set out separately in each individual application report.

#### **3.2 Sustainability**

Effective planning control concurs with the basic principle of sustainable development in that it assists in ensuring that development meets the needs of the present without compromising the ability of future generations to meet their own needs. Through the development control system, the Council can enable environmental damage to be minimised and ensure that resources are used efficiently and waste minimised. Particular sustainability issues will be highlighted in individual reports where appropriate.

#### **3.3 Equal Opportunities**

All applications are considered on their merits having regard to Government guidance, the policies of the adopted Unitary Development Plan (UDP) and other factors relevant to planning and in a manner according to the Development Control Code of Conduct for officers and members as set out in the Council's Standing Orders.

Planning permission in the vast majority of cases is given for land not to an individual, and the personal circumstances of the applicant are seldom relevant.

In particular however, the Council has to have regard to the needs of people with disabilities and their needs are a material planning consideration. Reference will therefore, be made to any such issues in the individual application reports where appropriate

Furthermore, the Council also attempts wherever possible/practical to apply good practice guidance published in respect of Race and Planning issues.

#### **3.4 Finance**

A refusal of planning permission can have financial implications for the Council where a subsequent appeal is lodged by the applicant in respect of the decision or if a case of alleged maladministration is referred to the Local Government Ombudsman or a Judicial Review is sought through the Courts.

In all cases indirect staff costs will be incurred in processing any such forms of 'appeal'.

However, there is no existing budget to cover any direct costs should any such 'appeal' result in 'costs' being awarded against the Council. These would have to be found by way of compensatory savings from elsewhere in the Planning Services budget.

Reference: 6/00/00/CM

Geoff Willerton  
Head of Planning

**FOR FURTHER INFORMATION ON THIS REPORT CONTACT:**

Geoff Willerton  
Head of Planning

TELEPHONE :- 01422 392200

**DOCUMENTS USED IN THE PREPARATION OF THIS REPORT:**

1. Planning Application File (numbered as the application show in the report)
2. Secretary Of State For Communities And Local Government
3. Calderdale UDP (including any associated preparatory documents)
4. Related appeal and court decisions
5. Related planning applications
6. Relevant guideline/good practice documents

**DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:**

Planning Services, Northgate House, Halifax HX1 1UN.

**NON EXEMPT DOCUMENTS ARE AVAILABLE FOR INSPECTION AT:**

Economy and Environment Directorate, Planning Services, Northgate House, Halifax

Twenty-four hour's notice (excluding holidays and weekends) may be required in order to make material available.

Telephone 01422 392237 to make arrangements for inspection.

**List of Applications at Committee 7 June 2011**

<b>Time &amp; No.</b>	<b>App No.</b>	<b>Location</b>	<b>Proposal</b>	<b>Ward</b>	<b>Page No.</b>
15.00	10/01534/FUL	Ashgrove House Elland Road Brighouse West Yorkshire	Proposed ten houses on site of previously approved building.	Brighouse	6 - 16
15.00	10/01535/LBC	Ashgrove House Elland Road Brighouse West Yorkshire	Ten terraced dwellings attached to Ashgrove House (Listed Building Consent)	Brighouse	17 - 21
15.00	11/00247/COU	Land Rear Of 10 Heywood Court Northowram Halifax West Yorkshire	Change of use of vacant land to extend domestic curtilage and construction of detached double garage	Northowram And Shelf	22 - 29
15.30	10/00257/VAR	Bowers Mill Branch Road Barkisland Sowerby Bridge West Yorkshire	Variation of condition 4 attached to planning permission 05/02577 to allow opening on Sundays and Bank holidays from 1200 hrs to 2300 hrs.	Ryburn	30 - 36
16.00	10/01522/COU	88 Wharf Street Sowerby Bridge West Yorkshire HX6 2AF	Change of use from office (A2 use) to Hot food takeaway (A5 use) including flat to 1st floor (part retrospective)	Sowerby Bridge	37 - 45
18.00	11/00200/FUL	Site Of Former Sterne Mill & Sewage Works Wakefield Road Sowerby Bridge West Yorkshire	Hybrid planning application. Detailed planning application for infrastructure works including new highway link (between Wakefield Road and Fall Lane), new canal and river bridges, cut and fill earthworks to prepare site levels, flood alleviation measures, the provision of	Sowerby Bridge	46 - 102

			<p>allotments, open space and local nature reserve.</p> <p>Outline planning application including details of access, with matters of scale, appearance, layout and landscaping reserved; forming a comprehensive mixed use development for employment (Use classes B1, B2 &amp; B8), residential (Use class C3) retail (Use class A1). leisure (Use classes A3, A4 &amp; D2) and community uses (Use class D1) with associated landscaping, car parking, tree planting public open space and related infrastructure, ancillary works and utilities</p>		

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- + Head of Highways and Engineering recommends Refusal
  - \$ Head of Highways and Engineering requests that conditions be applied
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Time Not Before: 15.00 - 01

Application No: **10/01534/FUL**

Ward: **Brighouse**

Area Team: **South Team**

Proposal:

**Proposed ten houses on site of previously approved building.**

Location:

**Ashgrove House Elland Road Brighouse West Yorkshire**

Applicant:

**Calverley Homes**

Recommendation: **MINDFUL PERMIT SUBJECT LA REFER SSDCLG**

Head of Highways and Engineering Request: \$

Parish Council Representations: N/A

Representations: No

Departure from Development Plan: Yes

Consultations:

Engineering Services - Network Section

Group Engineer (Environment) Projects Team

Environmental Health Services - Pollution Section

Environment Agency

Yorkshire Water Services Ltd

West Yorkshire Police ALO

British Waterways

Access Liaison Officer

The Coal Authority

Recreation, Sport And Streetscene - Outdoor Recreation (E)

Education Services

West Yorkshire Passenger Transport Exec

## **Description of Site and Proposal**

The site forms part of the curtilage to Ashgrove House, a Grade II\* Listed former Georgian mansion house, converted into apartments in the mid 1990's. The building fronts onto Elland Road, with well wooded and extensive grounds to the rear. The site is located in the Green Belt.

The proposal involves the construction of 10 terraced dwellings, including the creation of 10 garages and a further 11 parking spaces. The dwellings include separate external amenity space for each house. The dwellings would be attached to the existing Listed Building. Although an extension to an existing building, the creation of 10 new dwellings in the Green Belt is considered to be a major departure from the Replacement Calderdale Unitary Development Plan (RCUDP) and as such would require deferral to the Secretary of State if the Council were mindful to permit the application.

The application is before Planning Committee because the original application was determined by Planning Committee.

## **Relevant Planning History**

Planning Permission was granted in 1994 by Planning Committee for the conversion and extension of Ashgrove House, to include a total of 29 residential units (application number 04/00750). Listed Building Consent was also granted at this time under application no 94/00751. The permission was part implemented and therefore, although the extension was never built, permission for it remains extant.

Permission was granted under delegated powers on 25<sup>th</sup> June 2004 for an amendment to the above scheme allowing a total of 22 residential units. The permission allowed for 10 units within the extension (application number 04/00207). Listed Building Consent was also granted under application no 04/00206.

Reserved Matters were approved by Planning Committee for a leisure park, including woodland lodges and canal user facilities, on land adjacent to the south of the proposal site, on 22<sup>nd</sup> August 2000 under application no 99/00061. A start was made and the permission remains extant.

## **Key Policy Context:**

<b>RCUDP Designation</b>	<b>Green Belt Mineral Working Site Washland Wildlife Corridor</b>
<b>PPS/ PPG No</b>	<b>PPG2 Green Belt</b>
<b>RSS Policies</b>	<b>YH9 Green belts</b>
<b>RCUDP Policies</b>	<b>H9 Non Allocated Sites OS5 The Provision of Recreational Open Space in Residential Development BE1 General Design Criteria BE2 Privacy, Daylighting and Amenity Space BE3 Landscaping BE4 Safety and Security Considerations BE5 The Design and Layout of Highways and Accesses</b>



	<b>BE8 Access for All</b> <b>BE14 Alteration and Extension of Listed Buildings</b> <b>BE15 Setting of a Listed Building</b> <b>T18 Maximum Parking Allowances</b> <b>NE4 Conversion or Change of Use of Buildings in the Green Belt</b> <b>NE5 Replacement Dwellings in the Green Belt</b> <b>NE15 Development In Wildlife Corridors</b> <b>NE21 Trees and Development Sites</b> <b>EP8 Other Incompatible Uses</b> <b>EP10 Development of Sites With Potential Contamination</b> <b>EP13 Development Involving Non-Mains Drainage</b> <b>EP14 Protection of Groundwater</b> <b>EP15 Development Alongside Waterways</b> <b>EP16 Protection of Washland and Functional Floodplain</b> <b>EP21 Developments Involving Watercourse Improvements</b> <b>EP22 Sustainable Drainage Systems</b> <b>EP23 Culverting of Watercourses</b> <b>EP25 Energy Efficient Development</b> <b>EP27 Renewable Energy in Developments</b>
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**Publicity/ Representations:**

The application has been advertised by means of a site notice and press notice. No letters of representation/objection have been received.

**Assessment of Proposal**

**Principle**

PPG2 states that there is a general presumption against inappropriate development within the Green Belt. The proposed extension would constitute a disproportionate addition to the existing building, involving the creation of ten new dwellings in the Green Belt and as such is considered to be a major departure from the RCUDP.

There is a fall back position on the site from part-implemented permission 94/00750. The application in 1994 was justified as a departure on the basis that 'the proposed extension would not harm the function of the Green Belt, having regard to the size and prominence of the existing building'. As such it will be necessary to compare the effect of the respective schemes on the Green Belt.

Policy H9 allows for residential development on non-allocated brownfield sites where the site is located within easy walking distance of a bus stop (easy walking distance is defined as 400m) and wherever possible is within walking distance of local services. Existing or planned infrastructure should be able to cater for the development and there should be no physical or environmental constraints on development including flood risk.

The development would stand at 330m from the nearest bus stop but could not be said to be within walking distance of local services, which would be at Brighouse or Elland. As the site is fixed to the point of an extant permission, it would not be possible to move the development closer to the local services.

Infrastructure and environmental constraints are assessed below.

Policy NE6 states that there is a general presumption against new gardens for houses in the Green Belt except in very special circumstances where a real need can be demonstrated. Policy BE2 requires an adequate amount of external amenity space to be made available for new residential development. The very special circumstances in this case lie in the benefits of the proposal as a whole as compared with that already permitted in 1994. The lessening of the impact on the openness of the Green Belt, as well as the provision of external amenity space for residents both make the proposed development more favourable from a planning point of view. Very special circumstances also lie in the fact that the original conversion of the Listed Building was essential for that building's survival. It was considered at the time that further dwellings would be required to make the project viable and this was accepted as a special circumstance. While it could be disputed that viability, after all this time, rests on the introduction of ten further dwellings, the benefits to the longer term retention and maintenance of the listed building would no doubt be enhanced by further development of the site.

Policy BE14 allows for the extension of Listed Buildings in principle, subject to assessment of the impacts.

### **Openness**

The proposal should be assessed on whether the proposed extension would have a materially greater impact on the openness of the Green Belt than the part implemented 1994 permission. While the footprint would extend out into the curtilage by a further 7m the massing of the proposed extension would be considerably less than the permitted extension. The height and width of the proposed addition would contribute to a significant scaling down of the impact on the openness of the Green Belt than the extant permission. As such it is considered that, although a departure from the plan, the proposal is considered to be acceptable.

The proposed garages would be additional to the original scheme. These would not be visible from Elland Road and would be unlikely to be noticed from outside of the site. It is not considered that they are detrimental to the openness of the Green Belt. The new garden areas would introduce a series of enclosed courtyards to the north and 1.8m fences to the south. The impact of these on openness would be negligible as there are no significant public views over this area.

### **Visual Amenity**

Policy BE1 states that development should respect or enhance the established character and appearance of existing buildings and the surroundings. The proposed terrace would be attached to the more voluminous Grade II Listed Building, Ashgrove House. Previous permissions have revolved around the extension following the lines of this building and hence being substantially larger than the current proposal. The extension would now be stepped down from the original building and somewhat narrower, although design features such as window detailing and mansard roof, along with the use of materials, would reflect the original building. The Conservation Team have assessed the impact on the Listed Building and consider them to be lesser than the permitted scheme.

The proposed garages would be consistent with the design of the proposed terrace and would be tucked away from public view. It is considered that this approach is preferable to the piecemeal development of garages which may otherwise occur with such a scheme.

Policy NE6 of the RCUDP stipulates that new gardens, where very special circumstances have been demonstrated, do not harm the visual amenity and character of the landscape. Currently the area where the gardens would be is hardstanding, bordered with a tree and some bushes. The

land directly adjacent to the east is landscaped with a combination of lawn and hard surface and has a domestic appearance, serving as it does the apartments contained in Ashgrove House. The proposed garden areas would represent a continuation of this landscaped area and would be consistent with the surrounding area. The proposed boundary treatment between the courtyards on the north elevation is proposed to be finished in render. This would match the western elevation of Ashgrove House and is considered acceptable. The boundary treatment proposed for the gardens to the south is timber post and rail, although the drawing does not represent this. A boundary treatment condition would be appropriate, given the setting of the Listed Building to consider.

### **Conservation Issues**

PPS5 (Policy HE7 ii) stipulates that in considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals. Policy HE7 v states that Local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use.

Ash Grove House is an early C19 house substantially refurbished through the 1994 conversion. It was originally considered that an extension which matched the scale of the building would be the most appropriate way to develop the site. The view of the Council's Conservation Team is currently that a smaller extension, subservient to the main building would be appropriate, allowing the original building to be read and maintaining the character of the building. There is also a stepped down element to the building on the south wing which would be reflected by the lowering of the roofline in the new extension to the west. The design of the extension also incorporates a stepped feature to the footprint, a feature which relates back to the original permission and allows for vehicular turning. The house itself has a wing to the east with a further wing attached to the south and therefore is not entirely a linear building. The stepped element is not considered to be detrimental to the character of the heritage asset.

On the whole, the proposal is considered to be acceptable with regard to the character and heritage of the site.

### **Residential Amenity**

Policy BE2 of the RCUDP states that development proposals should not significantly affect the privacy, daylight and private amenity space of adjacent residents and should provide adequate of the same to prospective residents. As terraced houses, the dwellings provide adequate amenity, including external amenity space and habitable room windows which are not overlooked or overshadowed. The high retaining wall to the north would potentially have an overbearing impact on the ground floor rooms of the four dwellings to the western end of the terrace. The dwellings are orientated to account for this, with kitchens looking out onto the wall at a distance of 5.5m at the closest point. The ground floors are open plan and have large south-facing windows which would mitigate the overbearing effect of the retaining wall to the north. Second and third floor rooms would not experience the overbearing to the same degree. On the whole the proposal is considered acceptable with regard to Policy BE2.

Policy EP8 stipulates that where development proposals could lead to the juxtaposition of incompatible land-uses, they will only be permitted if they do not lead to an unacceptable loss of amenity caused by odour, noise or other problems. The site is adjacent to the very busy Elland Road. In order to protect the aural amenity of the occupiers of the new dwellings, the Head of

Housing and Environment requests a condition relating to the building specification. A further condition is requested relating to the provisions made for the storage and collection of wastes.

Policy EP10 requires submission of a land contamination survey for sites where there is the potential for such a problem. The report submitted with the application is acceptable but should be read in conjunction with a further, recommended site investigation of the land. The Head of Housing and Environment requests a further condition relating to this.

### **Highways**

In terms of traffic generation the traffic from the proposed 10 dwellings would probably be similar or possibly greater than that from the previously approved apartments. The Head of Highways and Engineering does not believe that any additional traffic would be significant enough to be a material consideration. It is noted that the sight line to the right on egress onto Elland Road has not been provided in full accordance with the original permission and so a further sight line condition has been requested by the Head of Highways and Engineering.

### **Drainage**

This proposal is in an area very remote from the public sewerage system. Policy EP13 of the RCUDP requires that a drainage assessment be submitted in this case. Such an assessment has been submitted. The Head of Housing and Environment does not object, subject to conditions supplied by the Head of Highways and Engineering being added.

### **Safety and Security**

Policy BE4 stipulates that the design and layout of new development should address the safety and security of people and property and reduce the opportunities for crime. West Yorkshire Police have supplied informatives to help in this regard.

### **Wildlife and Ecology**

The proposal falls within a Wildlife Corridor. Policy NE15 requires that development does not damage the physical continuity of the corridor, impair the functioning of the corridor or harm the nature conservation value of the corridor. It is not considered that the proposal would create a problem in this regard.

### **Open Space**

Policy OS5 of the RCUDP states that all new residential developments should provide for the recreational needs of the prospective residents. The Head of Neighbourhoods and Community Engagement requests a commuted sum of £16,462 in order to ensure existing open space facilities are enhanced. The applicant has agreed to enter into a Section 106 agreement in relation to this.

### **Renewable Energy**

Policy EP27 stipulates that major residential developments incorporate on-site renewable energy generation. A condition will be added to ensure this is pursued.

## **CONCLUSION**

The proposal is considered to be acceptable subject to the conditions specified below. The recommendation to grant planning permission has been made because the development, including the recommended conditions, is in accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan set out in the 'Key Policy Context' section above with the exception of PPG2. In this instance there are considered to be very special circumstances in that there are benefits of the proposal as a whole as compared with that already permitted in 1994; the lessening of the impact on the openness of the Green Belt, as well as the provision of external amenity space for residents and the original conversion of the Listed Building was essential for that building's survival.

Geoff Willerton  
Head of Planning

Date: 25.5.11

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### **Further information**

Should you have any queries in respect of this application report, please contact in the first instance:

Stephen Littlejohn (Case Officer) on Telephone number 01422 392228

Or

Anne Markwell (Senior Officer) on Telephone number 01422 392228

## **Conditions**

1. Notwithstanding any details shown on the permitted plans, the development shall not begin until details and/or samples of the facing material which shall be of regularly coursed natural stone (sympathetic in colour, coursing and texture to that used in the immediate vicinity), have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, it shall be constructed in accordance with the details so approved and so retained thereafter. The pointing shall be flush with the face of the stone or slightly recessed, ("ribbon" or "strap" pointing shall not be used) and shall be so retained thereafter.
2. Notwithstanding any details shown on the submitted plans, the development shall not begin until details and/or samples of the roofing material which shall be of natural blue slates have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the roofing of the development shall be constructed in accordance with the details/samples so approved and shall be so retained thereafter.
3. Notwithstanding any details shown on the permitted plans, the development shall not begin until details of the treatment of the boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The treatments so approved shall then be provided in full prior to first occupation of the dwellings and shall thereafter be retained.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008, (or any order revoking and re-enacting that order) no development falling within Classes A-H of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the Local Planning Authority.
5. Unless otherwise agreed in writing by the Local Planning Authority, details of scheme to incorporate on-site renewable energy generation, including details of the ratio of provision in percentage terms, shall be submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented prior to first occupation of the dwellings and retained thereafter.
6. The site layout, internal design and building specification of the development shall be such that the Indoor Ambient Noise Level within living rooms and bedrooms with the windows closed, assessed in accordance with BS8233:1999, shall not exceed:

40dB LAeq in living rooms and 35dB LAeq in bedrooms

45dB LAmx from 2300 hours and 0700 hours in bedrooms

55dB LAeq on balconies and in gardens at any time

7. Before development begins a scheme of the provisions to be made for the storage and collection of wastes including recyclable wastes arising from the development, compatible with the requirements of the Council's waste collection service, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall account for:
  - suitable location of waste store/s relative to all dwellings of the development hereby permitted
  - the design and construction of each waste store so as to minimise loss of amenity from vermin, odour, flies and animal attack and to provide sufficient space for receptacles for the separate storage of household waste and recyclable waste
  - waste collection points, level accessways between the stores and collection points and unobstructed vehicular access to waste collection points.

The provisions shall be constructed in accordance with the scheme so approved prior to the first occupation of the development, and maintained thereafter.

8. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the Local Planning Authority. The results of the site investigation, shall be made available to the Local Planning Authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before occupation begins and details of the work carried out shall be submitted in a validation report.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

9. Before development commences, a survey shall be undertaken to locate any existing drains, sewers or watercourses (open, piped or culverted) on the site and a scheme for the prevention of damage to, diversion of and exclusion of dry or waterborne contaminants and debris from these systems, both during the construction period and permanently, shall have been submitted to and approved in writing by the Local Planning Authority. The scheme so approved shall be implemented prior to the commencement of construction and retained thereafter as appropriate.
10. Unless otherwise agreed in writing by the Local Planning Authority, the development shall not begin until full details of the surface water and/or sustainable systems of drainage if feasible and/or sub-soil drainage for the development (including details of any balancing works, off-site works, existing systems to be re-used and diversions) have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.
11. Before any of the dwellings are occupied a site line of 4.5m by site frontage (for the avoidance of doubt the site frontage refers to the blue lined area as indicated on drawing 275/06) shall be provided with no obstructions over 900mm, and this site line shall be so retained thereafter.
12. Before any of the dwellings are occupied the service vehicle turning area shall have been provided as shown on drawing 275/02 and furthermore the gradient of any part of the turning area shall not exceed 1 in 20, unless otherwise agreed in writing by the Local Planning Authority. The turning area so provided shall thereafter be retained as such.
13. No dwellings shall be occupied until the garaging/parking facilities shown on the permitted plans for that dwelling have been provided. These facilities shall thereafter be retained.

### **Reasons**

1. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policies BE1 and BE15 of the Replacement Calderdale Unitary Development Plan.
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2. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policies BE1 and BE15 of the Replacement Calderdale Unitary Development Plan.
  3. In the interests of amenity and privacy and to ensure compliance with Policies BE1 and BE15 of the Replacement Calderdale Unitary Development Plan.
  4. For the avoidance of doubt as to what is permitted and to ensure a more satisfactory development of the site.
  5. For the avoidance of doubt as to what is permitted and to ensure a more satisfactory development of the site and to ensure compliance with Policy EP27 of the Replacement Calderdale Unitary Development Plan.
  6. In the interests of the aural amenity of the occupiers of the dwellings and to ensure compliance with Policy EP8 of the Replacement Calderdale Unitary Development Plan.
  7. In the interests of amenity and to ensure compliance with Policy H9 of the Replacement Calderdale Unitary Development Plan.
  8. For the avoidance of doubt and to seek to ensure that the site is safe for the development permitted and in the interests of amenity and pollution prevention and to ensure compliance with Policy EP10 of the Replacement Calderdale Unitary Development Plan.
  9. To ensure proper drainage of the site and to ensure compliance with Policy EP14 of the Replacement Calderdale Unitary Development Plan.
  10. To ensure proper drainage of the site and to ensure compliance with Policy EP22 of the Replacement Calderdale Unitary Development Plan.
  11. To ensure that suitable access is available for the development and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  12. To ensure that suitable access is available for the development and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  13. To ensure that suitable access (and parking provision) is available through the course of construction works in the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
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Time Not Before: 15.00 - 02

Application No: **10/01535/LBC**

Ward: **Brighouse**

Area Team: **South Team**

Proposal:

**Ten terraced dwellings attached to Ashgrove House (Listed Building Consent)**

Location:

**Ashgrove House Elland Road Brighouse West Yorkshire**

Applicant:

**Calverley Homes**

Recommendation: **MINDFUL TO GRANT LISTED BUILDING CONSENT**

Head of Highways and Engineering Request:

Parish Council Representations: N/A

Representations: No

Departure from Development Plan: No

Consultations:

Conservation Officers

**Description of Site and Proposal:**

The site forms part of the curtilage to Ashgrove House, a Grade II\* Listed former Georgian mansion house, converted into apartments in the mid 1990’s. The building fronts onto Elland Road, with well wooded and extensive grounds to the rear. The site is located in the Green Belt.

The proposal involves the construction of 10 terraced dwellings attached to the existing Listed Building.

**Relevant Planning History:**

Planning Permission was granted in 1994 by planning committee for the conversion and extension of Ashgrove House, to include a total of 29 residential units (application number 04/00750). Listed Building Consent was also granted at this time under application no 94/00751. The permission was part implemented and therefore, although the extension was never built, permission for it remains extant.

Permission was granted under delegated powers on 25<sup>th</sup> June 2004 for an amendment to the above scheme allowing a total of 22 residential units. The permission allowed for 10 units within the extension (application number 04/00207). Listed Building Consent was also granted under application number 04/00206.

Reserved Matters were approved by Planning Committee for a leisure park, including woodland lodges and canal user facilities, on land adjacent to the south of the proposal site, on 22 August 2000 under application number 99/00061. A start was made and the permission remains extant.

A full planning application for the current scheme is being assessed in conjunction with this Listed Building Consent Application (application number 10/01534/FUL).

**Key Policy Context:**

<b>RCUDP Designation</b>	<b>Green Belt</b> Mineral Working Site Washland Wildlife Corridor
<b>PPS No</b>	5 Planning for the Historic Environment
<b>Regional Spatial Strategy for Yorkshire &amp; the Humber</b>	ENV 9 Historic environment
<b>RCUDP Policies</b>	BE1 – General Design Criteria BE14 – Alteration & Extension of Listed Buildings BE15 – Setting of a Listed Building

**Publicity/ Representations:**

The application has been advertised by means of a press notice, and site notices. No letters of representation/objection have been received.

## **Assessment of Proposal**

### **Conservation Issues**

Sections 16 and 66 of the Planning (Listed Building and Conservation Areas) Act 1990 indicate that in considering whether to grant listed building consent for works, special regard must be given to the desirability of preserving the building and its setting or any features of special architectural/historic interest.

PPS 5 (Planning for the Historic Environment) including the accompanying Practice Guide set out the issues that are relevant to the consideration of listed building applications. PPS5 also sets out the Government's objectives for planning for the historic environment:

- to deliver sustainable development where decisions concerning the historic environment recognise 'heritage assets' as a non-renewable resource, take account of wider benefits of heritage conservation and recognise that intelligently managed change may be necessary
- to conserve 'heritage assets' in a manner appropriate to their significance by basing decisions on the level of significance and importance of the asset, ensuring that such assets are put to appropriate, viable uses, recognising the contribution of heritage assets to local character and sense of place, and integrating historic environment considerations into planning policies, and
- to contribute to knowledge and understanding of the past by ensuring opportunities are taken to capture evidence from the historic environment.

The PPS5 Practice Guide makes it clear that, although the statutory provision relating to development plan policies as a material consideration does not apply to applications for listed building or conservation area consent, the public benefits of any proposal that are relevant to the application of the relevant policies in HE9.2 and HE9.4 in respect of such consent decisions are likely to be closely aligned with the objectives of the development plan. In this respect, Policies BE14 and BE16 of the RCUDP do indeed reflect PPS 5 Policy HE9 in those respects:

Policy BE14 states that any alteration or extension of a listed building will only be permitted where it does not have an adverse effect on the architectural and historic character or appearance of the building or its setting, and it respects the individual details of the building which contribute to the character of the listed building.

Policy BE15 states that development will not be permitted where it would harm the setting of a listed building.

The proposed terrace would be attached to the more voluminous Grade II listed building, Ashgrove House. Previous permissions have revolved around the extension following the lines of this building and hence being substantially larger than the current proposal. The extension would now be stepped down from the original building and somewhat narrower, although design features such as window detailing and mansard roof, along with the use of materials, would reflect the original building. The Planning Department's Conservation Team have assessed the impact on the listed building and consider them to be lesser than the permitted scheme.

The proposed garages would be consistent with the design of the proposed terrace and would be tucked away from public view. It is considered that this approach is preferable to the piecemeal development of garages which may otherwise occur with such a scheme.

Currently the area where the gardens would be is hardstanding, bordered with a tree and some bushes. The land directly adjacent to the east is landscaped with a combination of lawn and hard surface and has a domestic appearance, serving as it does the apartments contained in Ashgrove House. The proposed garden areas would represent a continuation of this landscaped area and would be consistent with the surrounding area. The proposed boundary treatment between the

courtyards on the north elevation is proposed to be finished in render. This would match the western elevation of Ashgrove House and is considered acceptable. The boundary treatment proposed for the gardens to the south is timber post and rail, although the drawing doesn't represent this. A boundary treatment condition would be appropriate, given the setting of the Listed Building to consider.

PPS5 (Policy HE7 ii) stipulates that in considering the impact of a proposal on any heritage asset, local planning authorities should take into account the particular nature of the significance of the heritage asset and the value that it holds for this and future generations. This understanding should be used by the local planning authority to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposals. Policy HE7 v states that Local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use.

Ash Grove House is an early C19 house substantially refurbished through the 1994 conversion. It was originally considered that an extension which matched the scale of the building would be the most appropriate way to develop the site. The view of the Council's Conservation Team is currently that a smaller extension, subservient to the main building would be appropriate, allowing the original building to be read and maintaining the character of the building. There is also a stepped down element to the building on the south wing which would be reflected by the lowering of the roofline in the new extension to the west. The design of the extension also incorporates a stepped feature to the footprint, a feature which relates back to the original permission and allows for vehicular turning. The house itself has a wing to the east with a further wing attached to the south and therefore is not entirely a linear building. The stepped element is not considered to be detrimental to the character of the heritage asset.

The proposal is considered to be acceptable with regard to the character and heritage of the site.

## **CONCLUSION**

**For the above reasons, the proposal, subject to the conditions specified below, is considered to be in accordance with guidance contained within PPS 5 (Planning for the Historic Environment) and does not harm the character of the building or its setting. Furthermore, the recommendation to grant listed building consent has been made having regard to the policies and proposals in the RCUDP set out in the 'Key Policy Context' section above.**

**Chief Officer:                    Geoff Willerton**  
Head of Planning

Date: 26.04.11

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## **Further information**

Should you have any queries in respect of this application report, please contact in the first instance:

Stephen Littlejohn (Case Officer) on Telephone Number 01422 392228

Or

Anne Markwell (Case Officer) on Telephone Number 01422 392228

## **Conditions**

1. Notwithstanding any details shown on the permitted plans, the development shall not begin until details and/or samples of the facing material which shall be of regularly coursed natural stone (sympathetic in colour, coursing and texture to that used in the immediate vicinity), have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, it shall be constructed in accordance with the details so approved and so retained thereafter. The pointing shall be flush with the face of the stone or slightly recessed, ("ribbon" or "strap" pointing shall not be used) and shall be so retained thereafter.
2. Notwithstanding any details shown on the submitted plans, the development shall not begin until details and/or samples of the roofing material which shall be of natural slates have been submitted to and approved in writing by the Local Planning Authority. Before the development hereby permitted is first brought into use, the roofing of the development shall be constructed in accordance with the details/samples so approved and shall be so retained thereafter.
3. The development hereby permitted shall not begin until details of the materials, treatment and/or colour of the window and door frames have been submitted to and approved in writing by the Local Planning Authority. The window and door frames shall then be installed in accordance with the approved details and so retained thereafter.
4. The development hereby permitted shall not begin until details of all gutters, downpipes and all other external plumbing have been submitted to and approved in writing by the Local Planning Authority the use of plastic or similar materials for such items will not be acceptable. These items shall then be provided in accordance with the approved details and so retained thereafter.

## **Reasons**

1. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policy BE14 of the Replacement Calderdale Unitary Development Plan.
  2. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with Policy BE14 of the Replacement Calderdale Unitary Development Plan.
  3. In the interests of the local character and visual amenity, and of historical accuracy and to ensure compliance with Policy BE15 of the Replacement Calderdale Unitary Development Plan.
  4. In the interests of the local character and visual amenity, and of historical accuracy and to ensure compliance with Policy BE15 of the Replacement Calderdale Unitary Development Plan.
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Time Not Before: 15.00 - 03

Application No: **11/00247/COU**

Ward: **Northowram And Shelf**  
Area Team: **North Team**

Proposal:

**Change of use of vacant land to extend domestic curtilage and construction of detached double garage**

Location:

**Land Rear Of 10 Heywood Court Northowram Halifax West Yorkshire**

Applicant:

**Mr M Webster**

Recommendation: **PERMIT**

Head of Highways and Engineering Request:

Parish Council Representations: N/A

Representations: Yes

Departure from Development Plan: No

Consultations:

Environmental Health Services - Pollution Section

Engineering Services - Network Section

Group Engineer (Environment) Projects Team

## **Description of Site and Proposal**

Heywood Court is a development of modern town houses and apartments situated on a former school site on the outskirts of Northowram village.

An area of land lies to the south and east of the established garden of number 10 Heywood Court. It is a vacant strip of land previously in Council ownership and recently purchased by the applicant who now seeks planning permission to change the use of the land to bring it within his domestic curtilage and to construct a detached double garage for use ancillary to the dwelling.

## **Relevant Planning History**

97/00167/FUL - Housing development of fifty one dwellings – Permit  
10/09224/ENQ - Detached garage – informal enquiry

## **Key Policy Context:**

<b>RCUDP Designation</b>	PHA - Primary Housing Area
<b>RCUDP Policies</b>	H2 – Primary Housing Areas BE1 – General Design Criteria BE2 – Privacy, Daylighting & Amenity Space BE5 - Design and Layout of Highways and Accesses EP14 - Protection of Groundwater

## **Publicity/ Representations:**

The application has been advertised by means of neighbour notification. Six letters of objection have been received.

## **Summary of points raised:**

- Concerns with regard to loss of light
- Concerns with regard to noise nuisance as a result of use of the garage and also during the construction process (not a planning issue)
- Concerns that the building would be out of character with the area
- Concerns that the highway forming the access to the garage is not adopted and that the applicant has not served the required notice on the joint owners of the access

## **Ward councillor comments:**

Councillor Stephen Baines requested that the application be presented to Planning Committee as he considered that the structure was too large and out of keeping with the area. He was also concerned that trees that were covered under a protection order have been removed.

## **Assessment of Proposal**

### **Principle**

Policy H2 states that extensions of existing housing within Primary Housing Areas will be permitted, provided that they create no unacceptable environmental, amenity, traffic or other problems, and the quality of the housing area is not harmed, and wherever possible, is enhanced.



The area of land in question is a long, narrow plot that was left as a piece of vacant land forming a natural landscaped area between the Heywood Court development and curtilage land to Hill View Gardens. The land was formerly owned by the Council but was left largely untended and became very overgrown and untidy. The applicant bought the land and has cleared it of tipped debris and brambles etc. Some works have been carried out to unprotected trees that were identified as being diseased. Trees that are covered by a protection order are further to the east than the area of land included within the application.

The land falls within an area designated as Primary Housing and whilst it may be considered to be Green Field i.e. not previously developed, the proposed change of use would take the area of land into an established residential curtilage and the proposed new building would be a garage for use ancillary to the owners dwelling. The land, which had previously been used for tipping and had been left uncultivated, would be landscaped and therefore the visual amenity would be enhanced.

It is considered that the principle of the development is acceptable.

### **Visual Amenity**

Policy BE1 states that development should contribute positively to the quality of the local environment or at very least, maintain that quality. Where feasible, development should:- respect the established character, retain features/views that contribute to the amenity of the area, retain a sense of local identity, should not intrude on key views/vistas, should not significantly affect privacy, daylighting & amenity of residents, should incorporate trees/landscaping, should be energy efficient & consider security/crime prevention needs.

The plans originally submitted with the application showed a much taller, chalet type structure 6.6 metres by 7.6 metres to a maximum height of 6.2 metres, which would be centrally positioned within the eastern portion of the site area with the gable elevation being presented facing the highway. It was considered that this would form an incongruous feature within the streetscene that would be contrary to policy BE1. The applicant has subsequently submitted a revised design and siting. The roof orientation has been changed so that the gable elevations are now to the side and the structure set back within the site. The revised footprint would measure 8 metres by 6 metres with a maximum height of 4.5 metres to the ridge, thus reducing the impact of the building within the streetscene.

The garage would be built of facing and roofing materials to match the applicant's dwelling i.e. stone and slate with roof lights to allow natural daylight to the storage area within the roofspace.

It is considered that the garage, to the revised design, would respect the established character of the surroundings in terms of scale, form and design and would be acceptable when assessed under policy BE1.

### **Residential Amenity**

Policy BE2 states that development should not significantly affect the privacy, daylighting or amenity space of existing and prospective residents and other occupants. Annex A sets out guidelines to help assess whether such impacts arise.

The original scheme showed the garage approximately 8 metres from the main aspect window at number 12 Heywood Court, at its nearest point, which would have resulted in a shortfall of 3 metres when assessed against the requirements of Annex A. Near neighbours objected to the proposal on the grounds of reduction of daylight and loss of views.

The applicant subsequently revised the design and siting of the structure to fall within policy and address the objectors' concerns. The amended scheme would be positioned towards the southern boundary of the site, with the roofline running east west. This would allow a distance of 13 metres between the front elevation of the garage and the living room window of number 12, which would be acceptable in terms of Annex A of the RCUDP which requires a distance of 12 metres between main and side aspects. The change in the arrangement of the roof would also serve to reduce impact upon the neighbouring properties.

The dwellings to the rear of the site, numbers 1 to 6 Hill View Gardens, have main and secondary aspect windows on their rear elevations facing towards the site. There would be a distance of 16 metres from the rear elevation of the garage to the windows on the rear of these dwellings which would be acceptable when assessed against Annex A.

Whilst it is acknowledged that the proposal is for a substantial structure, it is considered in this instance that it would not significantly affect the privacy, daylighting or private amenity space of the neighbouring dwellings and would be acceptable in terms of policy BE2.

### **Highway Considerations**

Policy BE5 states that the design and layout of highways and accesses should ensure the safe and free flow of traffic in the interest of highway safety and provide an attractive environment which respects the local character of the area.

The head of the cul de sac abuts the site and the removal of a small area of the existing dry stone boundary wall would allow access to the garage with an area of hardstanding to the front of it for turning and manoeuvring. One objector raised concerns that the highway to the front of numbers 2 to 10 Heywood Court is not adopted and therefore notice should have been served upon the residents along that particular stretch of highway. However Council records confirm that the highway running up to the site is adopted and therefore the applicant would not need to serve notice upon the neighbouring residents.

Head of Highways and Engineering – Network Section raised no objections to the proposal.

### **Other Issues**

Head of Highways and Engineering – Projects Group (Drainage) noted that the applicant intends to use soakaways for rainwater disposal and has recommended that details of tests and calculations to show that this would be an effective means of disposal should be submitted and approved prior to works commencing. This may be secured by condition.

### **CONCLUSION**

**The proposal is considered to be acceptable subject to the conditions specified below. The recommendation to grant planning permission has been made because the development is in accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan set out in the 'Key Policy Context' section above and there are no material considerations to outweigh the presumption in favour of such development.**

Geoff Willerton  
Head of Planning

Date: 17 May 2011

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:-

Sally Rose (Case Officer) on Tel No: 392266

Or

Anne Markwell (Senior Officer) on Tel No: 392228

## **Conditions**

1. Before it is first brought into use, the development hereby permitted shall be constructed of facing and roofing materials to match the existing building, as specified on the submitted plans, and shall be so retained thereafter.
2. The development shall not commence until it has been demonstrated by percolation tests that soakaways are an effective means of disposal of surface water (will not cause water-logging or a nuisance to adjacent areas including through groundwater bleed). Details of the tests & calculations shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented prior to the first operation of the development and retained thereafter.
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2008, (or any order revoking and re-enacting that order) no development falling within Class E of Part 1 of Schedule 2 of the said order shall be carried out without the prior written permission of the Local Planning Authority.
4. The development shall not begin until details of the treatment of all boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The treatments so approved shall then be provided in full prior to the first occupation of the garage and shall thereafter be retained.
5. The development shall not begin until plans of the site showing details of the existing and proposed ground levels, proposed floor levels, levels of any paths, drives, garages and parking areas and the height of any retaining walls within the development site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the details so approved and shall be so retained thereafter.
6. Before the development hereby permitted is first brought into use, the area of hardstanding shall be constructed of permeable surfacing or drained such that surface water is directed to sustainable drainage and does not drain onto the adjacent highway and shall be so retained thereafter.
7. Unless otherwise agreed in writing by the Local Planning Authority, the development shall not begin until a scheme of landscaping the site, which shall include details of all existing trees and hedges on the land and details of any to be retained, has been submitted to and approved in writing by the Local Planning Authority.
8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the garage or the completion of the development, whichever is the sooner; and shall be so retained thereafter, unless any trees or plants within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased. These shall be replaced in the next planting season with others of similar size and species, (unless otherwise agreed in writing by the Local Planning Authority) and these replacements shall be so retained thereafter.

## **Reasons**

1. To ensure the use of appropriate materials in the interests of visual amenity and to ensure compliance with policy BE1 of the Replacement Calderdale Unitary Development Plan.
  2. To ensure proper drainage of the site and to ensure compliance with policy EP14 of the Replacement Calderdale Unitary Development Plan.
  3. In the interests of amenity and privacy and to ensure compliance with policies BE1 and BE2 of the Replacement Calderdale Unitary Development Plan.
  4. In the interests of amenity and privacy and to ensure compliance with policies BE1 and BE2 of the Replacement Calderdale Unitary Development Plan.
  5. To ensure that the works are carried out at suitable levels in relation to adjoining properties and highways in the interests of visual amenity and to ensure compliance with policies BE1, BE2 and BE5 of the Replacement Calderdale Unitary Development Plan.
  6. In the interests of highway safety and to ensure compliance with policy BE5 of the Replacement Calderdale Unitary Development Plan.
  7. In the interests of visual amenity and to ensure compliance with policy BE1 of the Replacement Calderdale Unitary Development Plan.
  8. In the interests of amenity and to help achieve a satisfactory standard of landscaping and to ensure compliance with Policies BE1 and BE2 of the Replacement Calderdale Unitary Development Plan.
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Time Not Before: 15.30 - 01

Application No: **10/00257/VAR**

Ward: **Ryburn**

Area Team: **South Team**

Proposal:

**Variation of condition 4 attached to planning permission 05/02577 to allow opening on Sundays and Bank holidays from 1200 hrs to 2300 hrs.**

Location:

**Bowers Mill Branch Road Barkisland Sowerby Bridge West Yorkshire  
HX4 0AD**

Applicant:

**Complete-Cuisine.Com UK**

Recommendation: **PERMIT**

Head of Highways and Engineering Request:

Parish Council Representations:

Yes No Objections

Representations:

Yes

Departure from Development Plan:

No

Consultations:

Environmental Health Services - Pollution Section

Ripponden Parish Council

Engineering Services - Network Section

## **Description of Site and Proposal**

The site is located within the Bowers Mill complex on the outskirts of Barkisland, within a rural area and located in a valley bottom. Nearby residential properties are located further up the valley at a higher elevation to the premises. The site, known as The Venue, operates from the first floor of a two storey part of the mill and faces onto a car parking area and millpond.

This application relates to the variation of condition 4 of planning permission 05/02577 for change of use of top floor (Unit 66) from Class D1 (art gallery, education and conference centre) to a mixed use of Class D1 and private functions (such as wedding receptions and private dinners/parties). Condition 4 states:

*Unless otherwise agreed in writing by the Local Planning Authority, the use of the premises shall be restricted to the hours from 08.00 to 00.00 Mondays to Thursdays and from 08.00 to 01.00 on Fridays and Saturdays and the premises shall not be used at any time on Sundays and Bank or Statutory holidays.*

The reason for the condition was in the interests of the amenities of neighbouring residents.

This application seeks to vary the above condition, to allow The Venue to open on Sundays and Bank Holidays from 12.00 to 23.00 hours.

The application has been submitted following complaints received by the Planning Enforcement Department concerning the alleged breach of several of the conditions of 05/02577 relating to the non submission of a noise scheme for entertainment noise, hours and days of operation and the use of the outside area in connection with the functions.

## **Relevant Planning History**

00/00016/COU - Change of use of top floor (Unit 66) from D1 (art gallery, education and conference centre) to a mixed use of Class D1 and private functions (such as wedding receptions and private dinners/parties) permitted subject to conditions by Planning Committee on 18 July 2000.

The planning permission was implemented, however condition 5, relating to the installation of an acoustic barrier to attenuate noise emanating from the car park was not constructed at the time. As such, a further application was submitted in 2005 to vary this condition (05/02577/REM).

05/02577/REM - Change of use of top floor (Unit 66) from Class D1 (art gallery, education and conference centre) to a mixed use of Class D1 and private functions (such as wedding receptions and private dinners/parties) - without complying with condition 5 relating to the provision of an acoustic fence/noise attenuation measures from the car park. This application was submitted under section 73A of the Town and Country Planning Act, i.e. an application for development already carried out without complying fully with the previously imposed conditions. The application sought the removal of condition 5 on the original permission 00/00016/COU requiring noise attenuation measures from the car park. The application was permitted by Planning Committee on 10 October 2006, subject to conditions.

Application 09/01027 for external decking with pagoda linked by decorative bridge and extended security gates was approved under delegated powers on 23 October 2009. The hours of use were limited to between 0800 and 2100.



### **Key Policy Context:**

<b>RCUDP Designation</b>	Green Belt Wildlife Corridor
<b>PPS/ PPG No</b>	2 – Green Belt 24 – Planning and Noise
<b>Regional Spatial Strategy for Yorkshire and the Humber</b>	YH9 – Green Belt SOC3 Retail and Leisure Facilities:
<b>RCUDP Policies</b>	NE3 – Noise Generating Development NE15 – Development in Wildlife Corridors T16 – Maximum Parking Guidelines

### **Publicity/ Representations:**

The application has been advertised by means of a site notice and 15 neighbour notification letters. 8 letters of objection have been received.

### **Summary of points raised:**

- Noise disturbance as a result of activities both inside and outside the building
- Failure of the LPA to enforce the conditions imposed on the original planning permission (05/02577) resulting in a negative impact on residential amenity
- Contravention of Green Belt Policy
- Adverse affect on character and amenity of area
- Disturbance to bats and nesting birds in the area
- Increase in traffic passing local resident's properties

### **Parish/Town Council Comments**

The Parish/Town Councils are consulted on all applications in their areas.  
The Ripponden Parish Council has raised no objections to this application.

### **Assessment of Proposal**

#### **Principle**

The principle of the use in the Green Belt has been established with the granting of permission 00/00016/COU. Changes of use of buildings are acceptable within the Green Belt. The variation of hours and days of operation are not considered to affect the principle of the use.

The main issue to be considered when assessing this variation of condition application is whether the extension of both hours and days of operations will have a detrimental impact on surrounding neighbours and their residential amenity.

#### **Highway Considerations**

The proposal utilises the existing access and car parking arrangements. The Head of Engineering Services has commented that while the weekend proposal will involve additional traffic, this is likely to be similar to other times when functions operate of which he is unaware of any traffic conflicts occurring. As such, there have been no objections raised on highways grounds.

## **Residential Amenity**

The principal concern of the objectors in this instance is that of noise disturbance from The Venue affecting the residential amenity of nearby properties. Objectors state that when functions are held, noise is generated both inside and outside the building carries across the valley and causes this disturbance.

The Council's Environmental Health Officers have been consulted on this application and the key comments are as follows:

This application relates to the extension of hours only, presently "The Venue" does not open on Sundays/bank holidays and as such the local residents have some rest from the day/evening activities carried on there.

This Service has received numerous complaints over the years in respect of noise arising from these premises. In the main they relate to break out noise from the music and DJ being audible in the locality when the windows and doors are let open, firework displays, voices when people are outside and vehicle movements.

Officers of this Service have investigated these complaints and apart from the firework displays have not found a statutory nuisance. Officers of this Service also have visited the premises during the 2005 application and for this application. Given the existing background noise especially the white noise emitted from the weir, the level of external noise emitted from the undertakings associated from this development would not be detrimental to the amenity if the outstanding conditions were addressed. It should be noted that break out noise from the venue was audible on the 12<sup>th</sup> June 2010 especially the PA system; however a condition is attached to the 2000 and 2005 approval to address this issue. Officers have witnessed on several of the visits that another problem which is arising, is that patrons do not have mobile phone coverage albeit that there is a pay phone available within the premises. This results in persons stumbling/walking to Branch Road and calling for taxis. Which is taking the potential of noise disturbance much closer to the residential properties as patrons often sit on the their garden walls waiting for taxis to arrive, and I understand that on most occasions there are often several people waiting for taxis.

Although, a noise assessment report by Noise and Vibration Consultants Ltd ref:RO5.1316/DRK dated 27<sup>th</sup> November 2005 was submitted for the breach of planning approval 00/00016 for condition 5. This noise assessment solely related to requirement of the acoustic barrier for the car park area and not for noise associated with break out noise from the venue or patrons outside.

"The Venue" received approval for use of a Pagoda and Wedding Island – this is limited for use until 21.00 hours (application 09/01027) at the time of considering that application I was concerned that it would introduce more noise into the evening period; however the island is to be used for wedding photographs and is small in size so its use is limited by those factors. However during my visit on the 12<sup>th</sup> June 2010, this area was being used by a couple and a child after 23.30 hours which once again indicates that the existing conditions are not being complied with.

I do have some concerns regarding an increase in opening hours. However since the submission of this application, this Service has been working with applicants in order to address our concerns relating to further noise and disturbance which could occur if this application was approved, and the outstanding conditions.

The applicants have now;

- Put new visible notices regarding outside drinking
- Installed CCTV for the external areas
- Installed telecommunication masts for Orange, T mobile/O<sub>2</sub> and Vodaphone

- Installed a sound limiter to the PA system which has will be set to level by Environmental Health in April 2011
- Established that acoustic glazing has not been installed and that a window specification of 4mm glass-18mm air gap-4mm glass may be required

I do feel 23.00 hours is too late and discussions with the applicants have advised that 19.00 hours would be more appropriate however on infrequent occasions the Sunday before a Bank Holiday they would like to operate until 23.00hours so that they can hold a wedding event. I have therefore recommended a condition to take this into account.

The proposal to operate on Sundays and Bank Holidays is acceptable subject to a condition to limit the opening hours on Sundays and Bank Holidays or Statutory Holidays to between 0900 and 1900. On Sundays prior to a Bank Holiday it is recommended that the hours permitted should be between 0900 to 2300. The proposal is considered to be acceptable because the hours of operation are not considered to cause unacceptable harm to nearby residents and works have been completed in consultation with Environmental Health Officers and the opening to 2300 would be very limited.

## **CONCLUSION**

**The proposal is considered to be acceptable subject to the conditions specified below. The recommendation to grant planning permission has been made because the development, including the recommended conditions, is in accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan set out in the 'Key Policy Context' section above and there are no material considerations to outweigh the presumption in favour of such development.**

Geoff Willerton  
Head of Planning

Date: 25 May 2011

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:-

Robert Rose (Case Officer) on Telephone Number: 01422 392201

or

Anne Markwell (Senior Officer) on Telephone Number: 01422 392228

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## **Conditions**

1. Unless otherwise agreed in writing by the Local Planning Authority, the use of the premises shall be restricted to the hours of 08.00 to 00.00 Mondays to Thursdays, 08.00 to 01.00 on Fridays and Saturdays and 09.00 to 19.00 on Sundays and Bank or Statutory Holidays. However on Sundays prior to a Bank or Statutory Holiday, the hours of 09.00 to 23.00 will be permitted.



Time Not Before: 16.00 - 01

Application No: **10/01522/COU**

Ward: **Sowerby Bridge**  
Area Team: **South Team**

Proposal:

**Change of use from office (A2 use) to Hot food takeaway (A5 use) including flat to 1st floor (part retrospective)**

Location:

**88 Wharf Street Sowerby Bridge West Yorkshire HX6 2AF**

Applicant:

**Mr G Nabi**

Recommendation: **PERMIT**

Head of Highways and Engineering Request:

Parish Council Representations: N/A

Representations: Yes

Departure from Development Plan: No

Consultations:

Group Engineer (Environment) Projects Team

Engineering Services - Network Section

Environmental Health Services - Pollution Section

Access Liaison Officer

British Waterways

Registration & Licensing

## **Description of Site and Proposal**

This application is before Members following deferral from the 5 April 2011 Committee, for further information. The requested information has now been submitted and details have been incorporated within the report.

The site is a terraced property located within the Sowerby Bridge Town Centre Conservation Area. It is currently vacant but was last used as an A2 use (Financial and Professional Services). The site forms a parade of shops with similar frontages. There is a mix of business types on the parade including shops, restaurants, takeaways, a deli and an alternative medical clinic.

The proposal is for a Change of Use from Office (A2 use) to Hot Food Takeaway (A5 use) and flat to 1<sup>st</sup> floor premises (part retrospective). It should be noted that the original submission included a replacement shop front and external flue but the plans have since been amended to retain the shopfront as existing, and to provide an internal flue.

## **Relevant Planning History**

The most relevant application was for a similar scheme which was withdrawn by the agent (10/00819/COU).

## **Key Policy Context:**

<b>RCUDP Designation</b>	Town Centre Conservation Area
<b>Regional Spatial Strategy for Yorkshire and the Humber</b>	YH6 Local Service Centres and Rural and Coastal Areas
<b>PPS/ PPG No</b>	PPS 4 Planning for Sustainable Economic Growth PPS23 Pollution Control PPG24 Noise
<b>RCUDP Policies</b>	S9 Non retail uses in smaller and local centres S15 Hot Food Takeaways EP8 Other Incompatible Uses BE18 Development within Conservation Areas BE15 Setting of a Listed Building BE1 General Design Criteria BE2 Privacy, Daylighting and Amenity Space H12 Living over Shops and Business Premises EP12 Protection of Water Resources BE8 Access for All

## **Publicity/ Representations:**

The application has been advertised by means of a site notice, press notice and neighbour notification letters. Ten letters of objection have been received along with two petitions. Duplicates of some of the ten letters have also been received which have not been included in the count.

## **Summary of points raised:**

- Concerns over the change of the shop front not being in keeping with the character of the street scene and Conservation Area

- Concerns raised about the appearance of the flue and the pollution that it will emit together with drainage issues
- No need for another food outlet, this will add to the litter and smell and spoil the entrance to the town
- Clients who visit the neighbouring Bridge Practice will find it difficult to deal with the inevitable rowdy, congested front that a hot food takeaway will attract
- This type of business does not help the health and well being of the neighbourhood
- Adverse affect on neighbouring business due to smells, litter and the type of clientele a chicken and chips outlet will attract
- Damage to neighbouring property has already occurred due to works being carried out on the premises
- The applicant wrongly states there is ample parking this is not the case as there are parking restrictions
- Proposal is out of keeping with the area
- Disposal of food waste in the narrow back alley is inappropriate
- Fear of threatening behaviour
- Disturbance to residential dwellings
- Enquiry to the Local Planning Authority on neighbouring property flagged up issues relating to proposed residential use above the premises

## **Assessment of Proposal**

### **Principle**

Policy S9 of the Replacement Calderdale Unitary Development Plan states that in local centres where there are no defined shopping frontages, proposals for non shopping uses will be permitted provided that the number of non-Class A1 uses within the centre does not exceed 35% of the total number of units available.

The premises are currently vacant but the last known use was for an estate agent which is classified as an A2 use (Financial and Professional Services). As the existing use is not an A1 (Shop) use there would be no loss or increase in non-Class A1 uses on the parade. Given this the proposal is considered to comply with policy S9.

Policy S15 states that proposals for hot food takeaways will be permitted where they comply with a range of criteria, with a sequential preference for such uses to be located within town centres or other parades of shops. The criteria require no unacceptable environmental or other problems to arise, that it should not be unduly detrimental to the amenities of anyone living nearby, not cause highway safety concerns, that satisfactory arrangements for dealing with cooking smells/fumes can be made, that shopping frontage policy is complied with, that the development preserves or enhances Conservation Areas where applicable and that other relevant policies are met. These issues are addressed in more detail in the report below.

Committee Members previously requested details of other hot food takeaways in the town centre. The applicant has submitted a list of cafes and hot food takeaways on Wharf Street. There are a total of 17 identified including the Moorings. Although this is a considerable number, the proposal complies with the relevant policies associated with hot food takeaways and change of use applications and therefore it would be difficult to refuse the proposal on the grounds that there are too many hot food takeaways.

PPS 4 Planning for Sustainable Economic Growth states that:



*“Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.” (EC10.1)*

*Policy H12 discusses Living Over Shops and Business Premises. It states that:*

The residential use of accommodation above shops (and other business premises), particularly within town centres, will be encouraged and supported. Proposals will be assessed against the following criteria, having regard to the nature and location of this type of accommodation in determining appropriate levels of amenity and car parking:-

- i. adequate noise attenuation measures are provided;
- ii. adequate access arrangements are available;
- iii. there is adequate car parking provision for schemes outside the town centres where these are not close to good quality public transport facilities;
- iv. any external alterations to the building are in accordance with the relevant UDP Policies relating to design and materials; and
- v. there are adequate facilities for the storage of refuse.

Subject to conditions the proposal would comply with the above criteria.

### **Visual Amenity**

Policy BE18 stipulates that special consideration be given to the visual character of the Conservation Area whilst Policy BE1 requires development to contribute positively to the quality of the local environment or at very least, maintain that quality. Where feasible, development should:- respect the established character, retain features/views that contribute to the amenity of the area, retain a sense of local identity, should not intrude on key views/vistas, should not significantly affect privacy, daylighting and amenity of residents, should incorporate trees/landscaping, should be energy efficient and consider security/crime prevention needs.

Concerns were raised originally by the Conservation Officer and objectors relating to the proposed new shop front as they considered it detrimental to the established character of this part of the street. These concerns were raised with the agent and an amended plan B was submitted 07/03/11 to address these concerns. The proposal no longer proposes a new shop front, the existing will now remain. Further concerns regarding the appearance of the flue on the rear of the property have also been addressed. There will now be an internal flue which will reduce the impact on the rear elevation. That part of the flue that does project (to the rear roof slope) will be finished in black. The only other external alterations are for replacement windows.

The proposal is now considered to comply with policies BE1 and BE18.

Policy BE8 - Access for All states that development proposals within buildings or sites that provide goods, facilities or services to the public should incorporate design features that facilitate easy access for all including those with disabilities.

The applicant will be made aware of the document ‘Guidance on creating accessible environments’.

### **Residential Amenity**

Policy EP 8 states that where development proposals could lead to the juxtaposition of incompatible land-uses, they will only be permitted if they do not lead to an unacceptable loss of amenity caused by odour, noise or other problems.

The Head of Housing and Environment has commented that the site falls within the Sowerby Bridge Air Quality Management Area and the applicant has failed to address the issues which arise from this. However if the application is permitted, a number of conditions to protect the aural amenity of occupiers of the proposed dwelling, and to protect residential amenity are requested.

With reference to the AQMA issue, Appeal Decision Ref: APP/A4710/A/06/2033604/NWF for 21-23 Town Hall Street Sowerby Bridge is particularly relevant. It mentions in paragraph 5 how a mixed use development in the town centre would *contribute to a potential reduction in pollution here (albeit miniscule)* by encouraging sustainable patterns of development and reducing the need for car-borne travel. The Inspector goes on to say in paragraph 6 “...it is hard to see why any compatible use proposed for a vacant property would not be recognised as potentially contributing to the vitality and viability here.” Paragraph 7 sums up the Inspector’s view on the balance that should be struck when considering development in an AQMA and he quotes from Annex 1 of PPS23: “It is not the case that planning applications for developments inside... AQMAs should be refused (even) if the developments would result in a deterioration of local air quality. Such an approach could sterilise development...”

As such it is considered that the proposal should not be refused based on its location within an AQMA. The re-use of an existing building is considered to be more beneficial to the street scene than an empty building. This, together with the Appeal Decision noted above, outweighs the concern of the Head of Housing and Environment.

Committee Members also requested further details regarding waste disposal and storage of waste. The agent has submitted an amended drawing received by the Local Planning Authority 13/04/11 showing a new bin store in the rear of the property at basement level. The Head of Housing and Environment cannot see any problems from a food point of view as long as the storage area is kept clean amongst other criteria identified in the consultation response received 19/04/11. An informative will be included drawing the applicant’s attention to the consultation response should the proposal be successful.

The proposal would not have a significant impact on the external appearance of the building and, as such, subject to conditions the proposal is acceptable in terms of policy EP8.

Policy BE2 states that development should not significantly affect the privacy, daylighting or amenity space of existing and prospective residents and other occupants. Annex A sets out guidelines to help assess whether such impacts arise.

The nearest property North of the site is number 85 Wharf Street which is 15 metres away at an angle and separated by the main town centre highway. Although there would be main aspect windows proposed in this elevation which could overlook other main aspect windows albeit at an angle, it is considered that the intersecting highway and the town centre location reduces the requirement for the usual preferred distance of 21 metres. The guidelines in Annex A of the UDP also states that exceptions can be made within town centres where other UDP objectives (such as living over the shop – policy H12) may be achieved. South of the site is a commercial building and therefore there are no privacy issues.

Given the above the proposal is considered to comply with RCUDP policy BE2.

### **Highways Considerations**

The Head of Highways and Engineering raises no objection to the proposal as Wharf Street is covered by parking restrictions and there are suitable public car parks in the area.

## **Other Issues**

The Head of Highways and Engineering Drainage has asked for a condition relating to a scheme to intercept fat be imposed.

British Waterways had no comments to make.

The Licensing Unit has stated there has been no application to license the premises. Committee Members asked whether they had any issues with hot food takeaways in the Sowerby Bridge Area. Licensing responded that from a licensing point of view there were no issues with Hot Food Takeaways.

Some of the objections relate to damage to property and personal comments regarding the applicant. These are not planning issues. It is considered that all other concerns have been addressed either by the amended plans, condition or by comments from consultees.

Committee Members asked if there had been any evidence of anti-social behaviour that the local police were aware of. After consultation with Sowerby Bridge Police, they advised that more than one incident of anti-social behaviour had been reported since August 2010.

## **CONCLUSION**

**The proposal is considered to be acceptable subject to the conditions specified below. The recommendation to grant planning permission has been made because the development, including the recommended conditions, is in accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan set out in the 'Key Policy Context' section above and there are no material considerations to outweigh the presumption in favour of such development.**

Geoff Willerton  
Head of Planning

Date: 16<sup>th</sup> May 2011

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:-

Gillian Boulton (Case Officer) on Tel No: 01422 392232

or

Anne Markwell (Senior Officer) on Tel No: 01422 392228

## **Conditions**

1. The site layout, internal design and building specification of the residential development shall be such that the Indoor Ambient Noise Level within living rooms and bedrooms with the windows closed, assessed in accordance with BS8233:1999, shall not exceed 30dB LAeq in living rooms and bedrooms, and 45 dB LAmax from 2300 hours and 0700 hours in bedrooms, and 55dB LAeq on balconies and in gardens at any time.
2. Unless otherwise agreed in writing by the Local Planning Authority and prior to the development commencing a scheme for a system of mechanical input and extract ventilation to the residential development shall be submitted to and approved in writing by the Local Planning Authority. The scheme must account for
  - all windows to any dwelling being sealed closed to the outside air.
  - source(s) of clean air to be provided to each room, allowing for the position of other flues, vents and chimneys relative to those sources and the boundary of the air quality management area.
  - noise levels inside habitable rooms not to exceed 35 dB LAeq (1 hour) between 0700 and 2300 hours and 30dB LAeq (1 hour) between 2300 and 0700 hours.
  - Once approved the scheme shall be fully implemented prior to the first occupation of the residential element and shall be retained thereafter.
3. The residential development hereby permitted shall only be occupied or used in connection with and ancillary to the use of the ground floor commercial premises, and shall at no time be severed and occupied as a separate independent unit.
4. Before development begins a scheme of the provisions to be made for the storage and collection of wastes including recyclable wastes arising from the development, compatible with the requirements of the Council's waste collection service, shall be submitted in writing to the Local Planning Authority for its approval. The scheme shall account for
5. Before the first use of the premises hereby permitted begins, details of a scheme of means to suppress and direct odour emissions arising from the use of the premises shall be submitted in writing to the local planning authority for approval. The scheme shall include details of
  - a) any abatement technology to be used to minimise or prevent emissions,
  - b) the height, position and design of any external chimney or extraction vent,
  - c) the position and descriptions/ use of buildings adjacent to any proposed vent or within 5 chimney heights distance from the location of a chimney,
  - d) in respect of any fans used in vents or chimneys the sound power level or sound pressure level of each fan at a given distance,
  - e) in respect of the enclosure; the sound reduction performance and the details of the fixing mountsThe details so approved shall then be implemented before the use first commences and shall be retained thereafter.
6. The use of the A5 premises shall be restricted to between the hours of 08.00 to 00.00 on Mondays to Saturdays and 10.00 to 23.00 on Sundays and Bank or Statutory Holidays.
7. Before commencement of any works on site details of a scheme to intercept fat, oils and grease in the drainage serving food preparation and dish-washing areas shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include proposals for regular emptying and disposal of the grease by a registered contractor to a licensed waste facility. The scheme approved should be implemented prior to the first operation of the development and retained thereafter.

## **Reasons**

1. In the interests of the aural amenity of the occupiers of the dwelling and to ensure compliance with policy EP8 of the Replacement Calderdale Unitary Development Plan and PPG24
  2. In the interests of the aural amenity of the occupiers of the dwelling and to ensure compliance with policy EP8 of the Replacement Calderdale Unitary Development Plan and PPS23
  3. In the interests of the amenity of the occupiers of the dwelling and to ensure compliance with policy EP8 of the Replacement Calderdale Unitary Development Plan.
  4. In the interests of amenity and to ensure compliance with policies S15 and EP8 of the Replacement Calderdale Unitary Development Plan.
  5. For the avoidance of doubt and in the interests of the amenities of neighbouring properties and pollution prevention and to ensure compliance with policies S15 and EP8 of the Replacement Calderdale Unitary Development Plan.
  6. In the interests of the amenities of neighbouring residents and to ensure compliance with policies S15 and EP8 of the Replacement Calderdale Unitary Development Plan.
  7. In the interests of pollution prevention and to ensure compliance with policies S15 and EP12 of the Replacement Calderdale Unitary Development Plan.
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Time Not Before: 18.00

Application No: 11/00200/FUL

Ward: Sowerby Bridge

Area Team: South Team

Proposal:

**Hybrid planning application. Detailed planning application for infrastructure works including new highway link (between Wakefield Road and Fall Lane), new canal and river bridges, cut and fill earthworks to prepare site levels, flood alleviation measures, the provision of allotments, open space and local nature reserve. Outline planning application including details of access, with matters of scale, appearance, layout and landscaping reserved; forming a comprehensive mixed use development for employment (Use classes B1, B2 & B8), residential (Use class C3) retail (Use class A1). leisure (Use classes A3, A4 & D2) and community uses (Use class D1) with associated landscaping, car parking, tree planting public open space and related infrastructure, ancillary works and utilities**

Location:

**Site Of Former Sterne Mill & Sewage Works Wakefield Road Sowerby Bridge West Yorkshire**

Applicant:

**Genr8 Developments LLP**

Recommendation: **MINDFUL TO PERMIT SUBJECT TO LEGAL AGREEMENT**

Head of Highways and Engineering Request:

Parish Council Representations: N/A

Representations: Yes

Departure from Development Plan: No

Consultations:

Business And Economy

Engineering Services - Network Section

The Highways Agency

Group Engineer (Environment) Projects Team

Environmental Health Services - Pollution Section

Housing Services

Tourism & Rural Development

Recreation, Sport And Streetscene - Outdoor Recreation

Recreation Sport & Streetscene - Countryside Section

Business And Economy

Community Safety

Conservation Officers

Building Control

Access Liaison Officer

Phill Ratcliffe

Regeneration & Development - Sustainability Team

Education Services

British Waterways

Calder Future

Calder Navigation Society  
CE Electric  
English Heritage (HUB)  
Environment Agency  
Government Office For West Midlands  
Health & Safety Executive  
Natural England  
Network Rail  
Sport England  
West Yorkshire Archaeology Service  
West Yorkshire Ecology  
Yorkshire Forward  
West Yorkshire Passenger Transport Exec  
Yorkshire Water Services Ltd  
West Yorkshire Police ALO  
Northern Gas Networks  
Sustrans  
Natural England  
West Yorkshire Ecology



## **Description of Site and Proposal**

The site is located between Sowerby Bridge, about 1 mile to the west, and Copley village, around ½ mile to the east and extends to 14.3 hectares of land. Most of the land to the north of the river, situated between river and canal was formerly occupied by Sterne Mills; most of the land to the south of the river was formerly a sewage works and dye works. Parts of the site have also been used for land fill and tipping of materials.

The site has been largely disused in recent years and vegetation has been allowed to establish. The existing primary site access is from Hollas Lane, a narrow road leading south off Wakefield Road. At its northern end Hollas Lane gives access to a private car park for employees of the Lloyds Banking Group, which has a large office and data centre north of Wakefield Road. An area of hardstanding within the site beyond the canal is used for informal parking. A smaller area of parking is situated immediately beyond the canal bridge to the east also used informally by bank employees, but also by users of the rugby pitch located to the east outside the site boundary. Hollas Lane crosses the site from north to south via Sterne Bridge (now closed as a 'dangerous structure') and exits the site under a listed railway bridge on the southern site boundary.

The Milner Royd allotments are located within the redline boundary, at the western extent of the site. These allotments are bounded by a fence and beyond that the public footpath that runs along the south bank of the river, a Yorkshire Water Pumping Station to the east, a narrow lane to the south and a small car park adjacent to Fall Lane, to the west.

The proposal itself is a 'hybrid' application which seeks:

- full planning permission for engineering works associated with land contamination remediation works and flood risk alleviation measures (including the formation of 'development platforms' involving raising land levels, formation of flood water storage areas and flood defence works), the construction of a new link road, including a replacement bridge over the canal and a new river bridge (the old bridge to be removed), the formation of a new area of allotments and the provision of an open space area and nature reserve on the south side of the river.
- outline planning permission for the mixed development of the site, primarily for employment and housing, but also including community and leisure uses as well as open space provision.

All matters except means of access are reserved for later approval. The proposal considers the site in 4 zones –

Zone A is referred to as The Island where it is proposed to build up to 200 dwellings with a mix of house-types and including several areas of open space on some 3.34ha of land. This is on the land formerly occupied by part of the Sterne Mill complex and land to its west, situated between the canal and the river.

Zone B is referred to as The Hub where it is proposed to build two blocks to accommodate a range of predominantly leisure-type uses such as a restaurant/bar, shop, community uses (such as a day nursery), leisure gym as well as offices, all on the lower floors, with up to 26 apartments on the upper floors. This zone is some 1.66 ha in size. A separate block to accommodate up to 8 dwellings is also proposed. This is on land formerly occupied by Sterne Mill, and is also on the north side of the river. NOTE: the application originally included the option of a hotel being included within this zone, but this has now been excluded from the proposals.

Zone C is referred to as The South Bank where it is proposed to build between 6 and 11 buildings to accommodate a range of office, light and general industrial, research & development and warehousing/distribution uses on an area of land 2.6ha in size. This zone is on the south side of the river.

Zone D is referred to as the Open Space area, also located on the south side of the river and is of some 6.04ha in size. This would include the formation of a new nature reserve, washland and flood storage areas, and other areas of open space including existing and replacement allotments.

### **Documentation submitted with the application**

The application includes an Environmental Impact Assessment having regard to the nature, size and potential environmental effects of the development, both during and after development. The supporting Environmental Statement (Documents 4, 5 & 6 which include technical appendices) gives consideration to issues of air quality, ecology and nature conservation, ground conditions and contamination, heritage assets, landscape and visual impacts, noise and vibration, socio-economic, waste and water resources. Further documentation submitted with the application is:

Document 1 Planning Statement  
Document 2 Regeneration Statement  
Document 3 Design and Access Statement  
Document 7 Flood Risk Assessment  
Document 8 Flood Risk Sequential Test Assessment  
Document 9 Transport Assessment  
Document 10 Travel Plan Framework  
Document 11 PPS4 Assessment  
Document 12 Sustainability Statement  
Document 13 Open Space Assessment  
Document 14 Education Statement  
Document 15 Crime Impact Assessment  
Document 16 Additionality Statement  
Document 17 Affordable Housing Statement  
Document 18 Schedule of Development  
Document 19 Employment Report  
Document 20 Statement of Community Involvement  
Document 21 Environmental Risk Assessment and Site Wide Remediation Strategy

### **Relevant Planning History**

The various parts of the site have, historically been occupied by different uses, and there have been a variety of applications associated with these over time including a number of application relating to the former Sterne Mills. The most relevant of these are:

74/00899 - Removal of ashes from tip and use of land as smallholding (west of Sterne Mill). Approved.

91/00325 - New factory (Renewal of planning permission 87/44/02938) (Outline). Approved.

93/01528 – Flood prevention measures comprising erection of wall and mounding to form flood water storage area. Approved.

96/02368 – Pumping Station (outline) (former sewage works). Approved.

97/01681 - Pumping station control room/wash room with external storage tank. Reclamation of abandoned tanks at Sowerby Bridge (former sewage works). Approved.

98/00456 - Pumping station control room/wash room with external storage tank: Reclamation of abandoned tanks. (former sewage works). Approved

04/00179 - Business park incorporating B1, B2, B8 A3 and D2 uses (Outline). Approved.

07/00292 - Replace existing road bridge over the canal. Approved.

10/01576 - Replacement canal bridge, junction improvements to Wakefield Road/Hollas Lane and associated highway works to Hollas Lane. Approved.

**Key Policy Context:**

<p><b>RCUDP Designation</b></p>	<p>Regeneration Action Site          Regeneration Action Area          Primary Employment Area          Washland          Site of Ecological or Geological Interest          Green Belt          Open Space – Amenity Land          Cycle Way Corridor of Interest          Wildlife Corridor</p>
<p><b>PPS/ PPG No</b></p>	<p>PPS 1: Delivering Sustainable Development          PPS 3: Housing          PPS 4: Planning for Sustainable Economic Growth          PPS 5: Planning for the Historic Environment          PPS 9: Biodiversity &amp; Geological Conservation          PPS10: Planning for Sustainable Waste Management          PPS 22: Renewable Energy          PPS 23: Planning &amp; Pollution Control          PPS 25: Development &amp; Flood Risk          PPG 13: Transport          PPG17: Planning for Open Space, Sport &amp; Recreation          PPG 24: Planning &amp; Noise</p>
<p><b>Regional Spatial Strategy for Yorkshire and the Humber</b></p>	<p>YH1 Overall approach &amp; Key spatial priorities          YH2 Climate Change and Resource Use          YH4: Regional Cities &amp; Sub-Regional Cities &amp; Towns          YH7: Location of development          YH9: Green Belts          LCR1: Leeds city sub area region policy          H1 Provision &amp; distribution of housing          H2: Managing &amp; stepping up the supply &amp; delivery of housing          H4: The provision of affordable housing H3          H5: Housing mix          E1: Creating a successful &amp; competitive regional economy          E3 Land &amp; premises for economic development          ENV1 Floods &amp; flood risk          ENV3 Water quality          ENV 5 Energy          ENV6 Forestry Trees &amp; woodland          ENV8: Biodiversity          ENV 9 Historic environment          ENV 11 Health &amp; recreation          T1: Personal travel reduction &amp; modal shift          T2: Parking policy</p>
<p><b>RCUDP Policies</b></p>	<p><b>GP1:</b> Encouraging sustainable development  <b>GP2:</b> Location of development  <b>GE1:</b> Meeting the economic needs of the district  <b>GE4:</b> Priorities for the reclamation and restoration of derelict land and buildings  <b>GH2:</b> Provision Of Additional Dwellings</p>

**GBE1:** The contribution of design to the quality of the built environment  
**GT4:** Hierarchy of consideration  
**GT5:** Transport assessments  
**GCF1:** Infrastructure and other needs arising from development  
**GCF3:** Strategic Framework for Community Facilities  
**GNE2:** Protection of the environment  
**E1:** Primary Employment Areas  
**E2:** Employment Development Outside Primary Employment Areas  
**E 5** Safeguarding Employment Land and Buildings  
**E7:** Sequential Approach to Major B1 Office Development  
**E 9** Warehousing  
**E 18** The Reclamation and Restoration of Derelict Land and Buildings  
**E 20** Regeneration Action Area: Sowerby Bridge Copley Valley  
**H 10** Density of Housing Developments  
**H 11** Mix of Housing Types  
**H 15** Lifetime Homes  
**S 2** Criteria for Assessing Retail Developments  
**S 3** Local Shopping Outside Centres  
**OS1** – Protected Open Spaces  
**OS 5** The Provision of Recreational Open Space in Residential Development  
**OS 6** The Safeguarding of Allotments  
**BE 1** General Design Criteria  
**BE 2** Privacy, Daylighting and Amenity Space  
**BE 3** Landscaping  
**BE 4** Safety and Security Considerations  
**BE 5** The Design and Layout of Highways and Accesses  
**BE 6** The Provision of Safe Pedestrian Environments  
**BE7** CCTV & area lighting schemes  
**BE 8** Access for All  
**BE 15** Setting of a Listed Building  
**BE24** Protection of Sites of Archaeological Value  
**T 1** Travel Plans  
**T 3** Public Transport Provision at New Development  
**T 13** Cycleways  
**T 18** Maximum Parking Allowances  
**T 19** Bicycle Parking Guidance  
**T 20** Motorcycle/Moped/Scooter Parking Guidance  
**CF8:** Day Care Facilities for Children  
**CF9:** Medical, Dental or Health Facilities  
**NE 14** Protection of Locally Important Sites  
**NE 15** Development in Wildlife Corridors  
**NE 16** Protection of Protected Species  
**NE 17** Biodiversity Enhancement  
**NE 18** Ecological Protection of Water Areas  
**NE 20** Tree Preservation Orders  
**NE 21** Trees and Development Sites  
**EP 1** Protection of Air Quality  
**EP 5** Control of External Lighting

	<b>EP 8</b> Other Incompatible Uses <b>EP 9</b> Development of Contaminated Sites <b>EP 12</b> Protection of Water Resources <b>EP 14</b> Protection of Groundwater <b>EP 15</b> Development Alongside Waterways <b>EP 16</b> Protection of Washland and Functional Floodplain <b>EP 17</b> Protection of Indicative Floodplain <b>EP 18</b> Development Behind Flood Defences <b>EP 20</b> Protection from Flood Risk <b>EP21:</b> Developments Involving Water Course Improvement <b>EP 22</b> Sustainable Drainage Systems <b>EP 25</b> Energy Efficient Development <b>EP 27</b> Renewable Energy in Developments
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### **Publicity/ Representations:**

The application has been advertised by means of a site notices, press notices and neighbour notification letters. 703 circular letters and 78 individual letters of objection, together with 2 letters of support have been received. Councillor J Hardy has also submitted a representation.

### **Summary of points raised:**

The circular letters of objection refer to following grounds:

- Site is in river floodplain where development should not be built
- Insurance premiums will increase due to increased flood risk
- More traffic jams, pollution and increased traffic on unsuitable local roads
- Will worsen air quality where there is already a problem
- Harm to trees, canal, flora and fauna
- Loss of jobs and services due to commercial/retail units proposed
- Development is contrary to Policy E20 of the RCUDP

**Note - a significant proportion of these circular letters of objection also include additional personal comments which are included in the summary of other grounds raised below:**

- Loss of bird habitat & decrease in biodiversity in the valley
- Replacement planting will not replicate existing habitat which is flourishing
- Increased access will lead to greater disruption of wildlife
- Development should be rejected until a fish pass or similar is included in the scheme
- Development would contravene Government advice on environmental improvements
- Loss of trees and green corridor
- Adverse impact on wildlife
- Loss of beautiful scenery & wildlife
- Adverse impact on foraging bats
- Proposals are contrary to Calderdale's Biodiversity Action Plan
- Potential impact on amphibians & otters
- Harm to Milner Royd Nature Reserve
- Harm to toads, frogs and bats that use the site
- Proposal would destroy more than it would create from an environmental viewpoint
- Loss of unique & natural recreation area

- Local roads are at or over capacity and cannot cope with more traffic
- Signalised junctions nearby will be over capacity according to the traffic assessment
- Tunnel under railway needs to be widened at developers expense
- Traffic assessment shows traffic on local roads will worsen and cannot be adequately managed.
- Proposed road is not adequate for HGVs needing access to Holmes Road
- Holmes Road will become a rat run
- No improvement to public transport
- Insufficient parking for HBOS employees
- Will be conflict between traffic using waste transfer facility and traffic using new road
- Housing part does not allow sufficient space for parking, emergency access or turning of service vehicles, so density is too great
- Will lead to displacement of existing parking on the site for Lloyds data centre
- Existing road infrastructure around the site is inadequate
- Contrary to Policy T13 as development will conflict with national cycle network
- Harm to safety of pedestrians & horse riders using lanes around Norland
- Traffic model used is flawed
- Harm to pedestrian safety from increased traffic
- More pressure on local services such as schools and doctors surgeries
- Insufficient school places at local schools – would also add to traffic problems as children would have to be taken to schools further away
- Sowerby Bridge is already over populated and has inadequate services – will lead to an increase in anti-social behaviour
- Do not accept that proposal will decrease flood risk
- Copley village at risk from increased flood risk
- Proposal fails flood risk sequential test as required by PPS25
- Increased flood risk in Copley, Elland & Brighouse due to increased run-off & reducing/removing flood plain
- Flood defences for Copley village should be improved before any development
- Proposal fails sequential test for flood plain development
- Increase drainage problems
- Development may not be completed in current economic climate and leave an eyesore
- Harm to rural character of the area
- Construction works will blight quality of life
- Potential pollution from disturbance of contaminated land
- Concern about land contamination on the proposed allotment site
- Allotments will be polluted from passing road traffic
- Disturbance of land will pollute the river
- Harm to quality of fruit & veg grown on allotments
- Development is contrary to Policy E20 of the RCUDP as the Holmes Road area is not included, and houses are proposed where businesses could relocate to.
- Scheme is illegal as it is secondary to the Holmes Road part of site E20.
- Contrary to PPS 1& Supplement to PPS 1 (not a sustainable development), 4 (out of town economic development) and 9 (will harm biodiversity interests)
- Proposal fails retail/commercial sequential test as required by PPS4
- Unwanted & unwelcome scheme opposed by overwhelming majority of local people

- Density & height of proposed houses are out of keeping and will ruin the landscape viewed from the towpath
- Proposals are totally out of sympathy with the area
- More negatives than positives to the application
- Development should be considered in more comprehensive way
- Negative impact on house prices
- Land should be kept as Green Belt
- No affordable housing included in the scheme
- Nobody wants this development
- No meaningful consultations carried out
- Harm to allotments
- Fails to meet social community directives
- Will destroy tourism potential of the canal corridor
- Will harm amenity of the canal users
- Design concept of housing is inappropriate
- Illustrative drawings are misleading
- Population figures quoted are misleading and are an underestimate
- Agricultural land declaration has been incorrectly completed
- If the Council are committed to this scheme it has failed in its duty of care to Calderdale citizens
- More use of derelict buildings should be made rather than build more
- Using site for employment purposes or as a nature reserve is supported, but not additional houses
- No need for more houses, offices or shops
- No need for industrial units if Holmes Road project is not proceeding
- Number of jobs to be created is not substantiated
- No proof that jobs created will be for local people
- Loss of local jobs due to increased competition
- Loss of trade to local shops and other businesses at Skircoat Green
- Loss of the valley's identity
- Only Genr8 & Calderdale Council will benefit from the scheme

The 2 letters of support give the following reasons:

Good solution to a derelict site that is an eyesore

Nature reserve is good to see

New premises for businesses are supported & will provide employment

Flood risk to Copley village is reduced

Evidence of wildlife using the site is scanty

Good rail connections nearby

### **Ward councillor comments:**

Cllr J Hardy has made a detailed representation which can be summarised as:

- Not objecting to the scheme or the principle of development
- Cannot underestimate opportunity to regenerate this former industrial site

However, this is subject to three concerns:-

1. Flood risk – land near to Copley has been subject of flooding – can the residents be confident that the development will not increase the risk of flooding?

2. Traffic movements – extra traffic will not help existing concerns about traffic levels on Wakefield Road and Copley Lane, the junction of the two and the junction at Salterhebble. Can residents be assured that the fullest measures will be taken to minimise the impact and that those measures would be monitored, complaints investigated and any necessary corrections made?
3. Education & infrastructure – local schools are full and it is essential that parents do not need to travel miles to other schools. Can residents be assured that every consideration is given to increasing funding to increase local school capacity and has consideration been given to adequacy of other local services such as doctors and buses?

**MP comments:**

- None received

**Assessment of Proposal**

The report will consider the overall principle of the development as a whole, but will then consider the two elements (full and outline proposals) separately.

**General Principle**

To the north of the canal, and including the new bridge, the land is designated as Primary Employment Area (PEA) on the UDP Proposals Map and to the south it is principally designated as a Regeneration Action Site (RAS) and is within a Regeneration Action Area (RAA), both subject to Policy E20. The south-eastern end of the site on the south side of the river lies within the Green Belt, and the western end, also to the south of the river, encroaches into an Open Space area (occupied by allotments). Therefore, there are several principle policies to consider.

Within the PEA, the only works are to improve the existing highway and junction. Policy E5 of the RCUDP seeks to safeguard land resources whose last use was for industrial, business, office or other employment uses. The area of the site within the PEA is existing highway infrastructure on Hollas Lane and the canal bridge. The use of this land will not change with the proposed development and it will improve access to the RAS to the south, as such it is considered that the proposal complies with policy E5.

Zones A, B and C, and most of Zone D all lie within the Regeneration Action Area (RAA) where Policy E20 sets out the requirements for development of this area. It should be noted that the RAA also includes a large area of land immediately to the west of this site. The policy states:

*“Land between Sowerby Bridge and Copley is identified on the Proposals Map as a Regeneration Action Area to assist in the development of a sustainable economy for this part of the District and to stimulate vibrant social and economic prospects. Action within this Regeneration Area will focus upon the following: -*

- i. An extended mixed-use town centre focus for Sowerby Bridge (on the land vacated by businesses off Holmes Road).*
- ii. Development of office and industrial use on land south of the River Calder opposite Sterne Mill, including the replacement of existing sports facilities.*
- iii. Development of a mixed residential, office and leisure use on Sterne Mill.*
- iv. Development of sports pitches on land east of Sterne Mill.*
- v. Protection of part of the Local Nature Reserve at Milner Royd.*
- vi. Creation of a new Local Nature Reserve on land south of the River Calder east of Sterne Bridge.*



*Development within this Regeneration Action Area needs to be considered in a comprehensive way. In particular, residential development at Sterne Mill will only be allowed as part of a comprehensive scheme to bring the land south of the river forward for development.*

*Footnote:- Should circumstances out of Calderdale Council's control prevent this wider scheme within the Regeneration Action Area from progressing, then the fall back position is to develop the Sterne Mill site in isolation solely for employment use."*

The current application relates to items ii, iii, v and vi of the above. The supporting text to the policy sets out in more detail what is envisaged but also states:

*"The primary purpose of the proposal is to facilitate the retention of existing employment and encourage further employment opportunities in order to assist the development of a sustainable community."*

In this context the application can be seen to be achieving, in principle, one of the main aims of the RAA in delivering employment development (Zones B & C). Up to 18,500m<sup>2</sup> of employment floorspace would be provided which, it is estimated, would allow for the provision/retention of around 577 full time equivalent jobs. However, the site is subject to various constraints on development, including significant areas of ground contamination from previous uses of the land, the need to undertake substantial engineering works to alleviate flood risk issues and the need to construct two new bridges and a new road link to serve the land on the south side of the river. These issues were acknowledged though at the time the site was allocated as an RAA and when considered by the Inspector at the UDP Inquiry, in recognition of which the policy does allow for the provision of housing on the site to facilitate a viable development.

It will be noted that some objectors consider the proposal does not meet policy E20 because the Holmes Road part of the RAA (item i) is not included. However, the policy does not require the whole of the RAA to be developed at the same time, and the proposals would not prejudice the scope to develop this area. Indeed, the proposals would help facilitate future development at Holmes Road by providing alternative business premises for relocation opportunities and improving access to the Holmes Road area. It should also be noted that, in relation to item iv of Policy E20, land to the east of Sterne Mill is now in active use as a junior rugby sports pitch (a use which has resumed since the UDP Inquiry) and the proposed new access road to Holmes Road avoids any direct impact upon the Milner Royd nature reserve (item v in Policy E20).

Overall therefore, the proposals are considered to be entirely in accordance with Policy E20.

Zone D falls partly within the Green Belt at the south-eastern end of the site. In the short term, this land would be the subject of substantial engineering works as part of the overall flood risk alleviation measures being proposed, such that for the period of construction works there would be harm to the visual amenity of the Green Belt. However, in the longer term, this area is proposed to become a new nature reserve incorporating wetland habitat and would be landscaped with appropriate planting accordingly. No building is proposed in this area, and in these circumstances it is considered that the openness of the Green belt would be maintained and the visual amenity value of the land restored. As such, it is considered that the proposal would comply with Green Belt policies.

The proposed new road linking Hollas Lane with Holmes Road involves the improvement and widening of a section of existing track alongside the allotments at the western end of the site within the Open Space Area. Policy OS1 seeks to protect Open Space uses, but does provide for the possibility of replacement facilities of equal value being provided in the locality to compensate for any open space loss. Furthermore, Policy OS6 incorporates a similar requirement specifically in relation to allotments. In this case, the proposed highway works would impact on existing

allotments but the proposals do also include the provision of a new area of allotments adjacent to the existing allotments to compensate for this impact. The proposals involve the loss of some 700m<sup>2</sup> of land for the road widening, but the replacement area would provide for some 1000m<sup>2</sup> of allotment land. In principle therefore, the proposals are considered to comply with Policies OS1 and OS6.

It is also necessary to consider the proposal in the context of the more general UDP policy position relating to encouraging sustainable development (GP1 & GP2), meeting economic needs (GE1) and prioritising the development of derelict or degraded land (GE4). Both PPS 1 and PPS 4 also deal with similar issues.

On the issue of sustainability, this must be considered in a whole range of different aspects. PPS 1 (para 5) summarises this:

*“Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by:*

- making suitable land available for development in line with economic, social and environmental objectives to improve people’s quality of life;*
- contributing to sustainable economic development;*
- protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities;*
- ensuring high quality development through good and inclusive design, and the efficient use of resources; and,*
- ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community.”*

It will be seen that the proposal can contribute to these aims in a number of ways. Matters such as good design and materials, incorporation of mixed house types to suit different needs, provision of on-site renewable energy, high standards of energy efficiency and so on would be matters for more consideration at reserved matters stage, although the proposal indicates that all these issues will be incorporated at that stage. The re-use of degraded land to provide for both economic development and housing is also a clear benefit as sought under policies GP1, GE1 and GE4.

The position is less clear cut in relation to the location of the site, particularly relative to public transport. This is given more consideration in relation to highway issues later on in this report although it should be noted that, in allocating the site as an RAA, the Inspector stated:

*“I accept public transport is also not ideal at the present, but the site is in a sustainable location close to the town centre with its facilities and there is housing and employment adjacent to it.”*

Overall, taking account of the above, the proposal is considered to comply with policy E20 and the relevant general planning policy guidance such that it is acceptable in principle. Consideration of the more detailed aspects of both elements (full and outline) of the application is set out below.

### **The Full Application proposals**

These comprise engineering works associated with land contamination remediation works and flood risk alleviation measures (including the formation of ‘development platforms’ involving raising land levels, formation of flood water storage areas and flood defence works), the construction of a new link road, including a replacement bridge over the canal and a new river bridge (the old bridge to be removed), the formation of a new area of allotments and the provision of an open space area and nature reserve on the south side of the river.

## **Ground Conditions & Contamination**

Given that the purpose of the engineering works is to render the land suitable for economic and other development in accordance with Policy E20, and that much of the site is previously developed land, these works would clearly comply with policies GE4 and E18 subject to overall compliance with other UDP policies and objectives, and that nature conservation interests are investigated and protected or enhanced where possible. The latter point is considered later.

The site is known to be contaminated and extensive investigations have been carried out with detailed reports submitted. These identify the contaminants and set out means of remediation appropriate for the proposed end use of each part of the site. The reports identify that it may be necessary to export some unsuitable soils from the site, but that the aim of the earthworks strategy and scheme design is to re-use surplus materials and minimise removal of soils as far as possible. It is anticipated that there may be a small proportion of materials that are unsuitable for reuse because of their geotechnical and chemical properties and hence would require removal from site.

With regard to importation of materials, the agent states that, as with any construction project where specific types of earthworks materials are not available on site, these would need to be imported. These would include final high quality capping materials, clean topsoil and subsoil for the new allotment area to be constructed, and highways sub-base and road base. It is not envisaged that materials will be imported as part of the bulk earthworks exercise to form site levels.

The Head of Housing & Environment has considered the reports and accepts that they satisfy the requirements of PPS 23, subject to the imposition of a condition to require the submission and implementation of a detailed remediation scheme, method of dealing with finding of unexpected contamination and a scheme for long term monitoring and maintenance.

The Environment Agency has commented that the controlled waters at the site are of low environmental sensitivity and so make no further comment regarding contaminated land issues. Accordingly, the proposal is considered acceptable in relation to policies EP9 and EP12 subject to the condition referred to above.

## **Flood Risk & Drainage**

The site lies within areas identified as being within flood zones 1, 2 and 3 (a & b) and is therefore liable to flooding. Accordingly, as required by PPS 25 and UDP policies, a Flood Risk Assessment (FRA) has been undertaken and extensive consultations with the Environment Agency (and others) have been carried out. However, the starting point is to consider whether or not there are any sites sequentially better located (in relation to land liable to flooding) that could accommodate the proposed development. This has been undertaken but, given that the allocation of the site has a very particular purpose to assist the regeneration of Sowerby Bridge and that much of the surrounding land is within the Green Belt, the sequential test unsurprisingly finds that there is no suitable site less liable to flooding available that would provide the same level of benefit in relation to the regeneration of Sowerby Bridge as envisaged under Policy E20.

In these circumstances PPS 25 sets down an 'Exception test' that must be applied before development can be considered further. This test requires that the development would deliver wider sustainability benefits to the community, that the land is previously developed, and that the development can be designed to make it safe in relation to flood risk. The submitted Flood Risk Assessment demonstrates that the scheme proposals have been designed so as not to increase flood risk elsewhere, either up or downstream (including Copley village) and provides for flood defences and development platforms at levels that would protect homes & businesses within the site from 1:100 years flood events, taking account of climate change impacts.

In relation to the engineering works on the site itself, other than addressing land contamination issues, the primary purpose of these is to raise the land levels within development zones A, B and C so that the buildings are constructed above the 1:100 year flood level, and to form flood water storage areas and drainage channels within zone D to deal with displaced water during times of flood. The new road bridge (to be built at a height such that its deck would be clear of the 1:100 year flood level) would also replicate the function of the existing road bridge (which is required to be removed for safety reasons) in moderating the river flow. A new surface water drainage network is also proposed which would reduce peak surface water flows into the river. Other measures such as sheet piling the northern bank of the river, removal of the old mill race and locally raising the riverside footpath level would also be undertaken. The cumulative effect of these works is to make the development safe in relation to flood risk so as to satisfy this part of the Exception test. Given also that most of the site is 'previously developed' and that the proposal seeks to deliver regeneration benefits in a sustainable manner, the Exception test is passed.

Consequently, it is important to note that the EA has raised no objections to the scheme in relation to flood risk issues, having taken account of the submitted flood risk assessment, subject to several conditions.

In relation to more general drainage issues, the Head of Highways & Engineering (Flooding & Land Drainage) comments that there is a possible presence of an ordinary watercourse through the South Bank development area and that Yorkshire Water has records of sewers and drains crossing the site. He also queries how surface water drainage relating to the proposed undercroft parking areas would be addressed, but overall raises no objection subject to a range of conditions in relation to both drainage and flooding matters. Yorkshire Water has also been consulted and originally raised an objection to the proposal because of concerns about the sewers and drains that cross the site. However this was based upon the illustrative layout 'Masterplan' and it is clear that the detailed layout, which is for consideration at reserved matters stage, could be designed to address Yorkshire Water's concerns. Yorkshire Water has since confirmed that it is satisfied that this can be addressed with appropriate conditions and has withdrawn its objection to the proposals.

Overall therefore, the proposal is considered to comply with PPS 25 and policies EP12, 14, 16, 17, 18, 20, 21 and 22 subject to the appropriate conditions.

### **Highway Considerations**

Policy BE5 of the RCUDP requires that highway access and parking in new development must provide for safe and efficient movement by pedestrians, vehicles, and cyclists. The Head of Highways and Engineering was consulted on the application and made the following comments in respect of the road infrastructure element of the full application:

"This represents part of the road infrastructure to serve the mixed use development on Sterne Mills Wire Works site. It includes the creation of a new signalised junction on Wakefield Road, erection of new bridges on Hollas Lane and new retaining wall structures. Hollas lane will be realigned and regraded to accommodate the alignment of the new bridges providing access for future development. The alignment also includes the existing Bridleway (Halifax No 677) which links Wakefield Road with Sterne Bridge and Public Footpath (Sowerby Bridge No 80).

In terms of the construction, there will be an impact on the Lloyds car park adjacent to Wakefield Road. This car park accommodates in the region of 200 vehicles. The construction of the retaining wall reduces this car parks capacity by 30 -35 vehicles. Details of where these vehicles will park during construction requires further discussion.

There will also be an impact on Bridleway Halifax 677. Measures will need to be in place for the protection of pedestrians, cyclists and horse riders who use the Bridleway throughout the construction phase; otherwise, the applicant will need to apply for a Temporary Traffic Regulation Order to close the Bridleway for a maximum of 6 months. This can be done under The Road Traffic Regulation Act 1984.”

As part of the development proposals, the design of the signalised junction will come under Section 278 of the Highways Act 1980. The construction of the road linking into the site will come under Section 38 of the Highways Act. The infrastructure will therefore be adopted as part of the public highway network and maintained at public expense.

In terms of the design the proposals are considered on balance to be acceptable. The final detailed design will be considered as part of the obligations by the developer to provide Highway Infrastructure fit for purpose.

The Head of Highways and Engineering therefore has no objections to this part of the application subject to conditions and the full application proposals are considered to comply with policy BE5 of the RCUDP.

### **Ecology & Nature Conservation Issues**

A detailed study of the impact of the development on the ecology of the area has been submitted as part of the EIA. This identifies a number of locally designated sites in the locality, the nearest being the Milner Royd Nature Reserve (adjacent to the south-west of the site) and the canal, which is a Site of Ecological or Geological Interest (SEGI). The site is also within an identified Wildlife Corridor. Surveys of the various habitats within the site, and for flora and fauna, including protected species have also been undertaken. These found that habitats on the site were locally important for amphibians and breeding birds particularly, including four species of high conservation concern. With regard to bats, although there were parts with potential for bat roosts, no actual evidence of roosting within the site was found, but there was evidence that parts of the site are used for foraging, particularly along the canal and river corridors. There was also evidence of otters being likely to be transient through the site, but no holts or resting places were found. Brown trout were also identified as being present in the river.

With regard to habitats, these were a mixture of mixed woodland, ponds and grassland as well as the river, canal and areas of standing open water. A ‘vulnerable’ species of pondweed was also identified as being present on the adjacent section of the canal.

The ecological interests of the site are principally at risk in relation to the engineering and other works being carried out in the early phases of the development. Without mitigation, the impacts are potentially significant. The most significant losses would be 2.5 ha of woodland, loss of 6 ponds and 5 other water bodies, loss of 1.9ha of grassland, 0.9ha of swamp, and other smaller areas of broad-leaved plantation, short ephemeral/perennial, tall ruderal and dense scrub. The main impacts on fauna is identified as being impacts on breeding birds and bat foraging activities.

In terms of mitigation to off-set these impacts, the proposal includes various wetland habitats including 9 waterbodies, 1.5ha of new woodland, 2.25ha of grassland and 0.52ha of reedbed as well as smaller areas of swamp, broad-leaved plantation and dense scrub within zone D. A linear area of open space along the south side of the river which includes areas of woodland and grassland, is specifically proposed in order to retain a corridor through the site. It is also proposed to attach bird boxes to trees and buildings, and bat bricks and boxes in appropriate locations (such as the new bridges), to provide measures to encourage otter movement and to provide fish shelters/ledges in the river channel. Together with various other measures which would also protect the ecological interests of the Milner Royd Nature Reserve and the canal SEGI, the report

concludes that the overall impact on the ecology of the site would be neutral or slightly beneficial due to increased management and the social benefits of improving public access for local communities.

Natural England has been consulted on the proposals and has commented that it is disappointed to see the loss of habitat and vegetation along the north bank of the river and the south bank of the canal and state that they would wish to see reinstatement of the banksides to retain the integrity of the wildlife corridor.

On the various ecology survey reports, Natural England state that the recommendations these make are appropriate and should be followed. They also recommend that the existing Sterne Bridge be retained or replaced nearby to retain a corridor for amphibian movements, and that a management plan is required for the open spaces. They would also wish to comment on landscape impact, but acknowledge that this would be more appropriate at reserved matters stage.

The Environment Agency has also commented on ecology and biodiversity issues, in particular recommending that a fish and eel pass at the weir in the river are considered as part of the proposals. They also comment on the need for a buffer zone between the river and the development on The Island site, that 'defensive planting' is required on parts of the site, that light spillage needs to be controlled and that the proposed site management plan for nature conservation is welcomed, but would wish to see a minimum 10 year period post-construction covered in the maintenance schedule.

West Yorkshire Ecology has also raised similar issues regarding the provision of a fish pass, but also comment on the need for an improved buffer strip on the north side of the river bank and raise concerns about the potential for buildings to overshadow the canal to the detriment of the pondweed here and would wish to see minimum stand-off distances along this boundary. Finally, they too, refer to the need for a substantive commitment to on-going management of the open spaces and would also wish to see a commuted sum being provided to pay for on-going management work.

In response to these points, the agent has provided more detail to demonstrate how the buffer to the north river bank could be treated to improve its habitat value, and has confirmed that the developer would be willing to investigate options for a fish pass. Meetings have been held with the Environment Agency and agreement reached that this matter be further investigated, with the issue being addressed through inclusion in a legal agreement, but with delivery of the fish pass being subject to a viability assessment. West Yorkshire Ecology has confirmed that they are now satisfied with the treatment of the north bank of the river and that the issue of overshadowing of the canal can be addressed by providing buildings with a stand-off from the canal towpath and accept that this can be covered, at this stage, by an appropriate condition and the Schedule of Development has been amended to incorporate this requirement accordingly. The new bridge is also to be designed to provide an alternative corridor for amphibian movements. Finally, the issue of the management plan is also covered by means of a condition.

On the basis of the above, it is considered that the proposal complies with Policies NE14, NE15, NE16, NE17, NE18 and EP15.

### **Trees and Landscape Impact**

The site currently includes a considerable number of trees which, collectively, contribute significantly to the visual amenity of the area. The application is accompanied by a tree survey that confirms that the vast majority are in reasonable health and fall into the 'retention desirable' category. Some of the trees on the eastern side of the main access road, near it's junction with Wakefield Road, are part of a woodland that is the subject of a group Tree Preservation Order

(TPO). The remaining trees on the site are not the subject of a TPO, but are largely within the Council's ownership. The main areas of trees are located along the canalside boundary of the site, along either side of the river frontages (except that part formerly occupied by Sterne Mill) and much of the south side of the river other than within the area of the former sewage works.

With regard to the trees either side of the access road leading from Wakefield Road to the canal bridge, permission to remove these as part of the previous application for the canal bridge replacement application (10/01576) has already been granted, and the current proposal would require the same degree of tree removal. Elsewhere on the site, the site remediation works (dealing with ground contamination), the flood risk alleviation measures, the construction of the new link road and the engineering works to provide the development platforms would all entail a considerable amount of tree loss. The main areas of retained trees would be on the south bank of the river to the east of the weir and to the east and north of the South Bank zone.

The tree survey identifies some 61 individual trees and 59 groups of trees within the site that are principally within retention category B (retention desirable), although some fall within category C (could be retained). Of these there are 9 individual trees that are recommended for removal for various health-related reasons. Of the rest, a further 44 individual trees are shown for removal along with most or all of 51 of the groups of trees. The total number of trees to be lost is difficult to quantify as the groups vary in number quite significantly. The overall tree loss would therefore be substantial and the potential impact upon the visual amenity of the area is equally great.

In mitigation, the proposals do include for replacement tree planting within Open Space Zone D, and there would be some tree planting expected as part of the overall landscaping of the other development zones, but that would be for consideration at reserved matters stage. The site does nevertheless benefit from other screening in the form of the railway embankment to the south of the site, the trees growing along the north side of that embankment, the trees on the Milner Royd Nature Reserve, and the trees growing on the embankment to the north side of the canal. The agent also indicates that best endeavours to retain some further trees around the margins of the workings (for example along the canal towpath boundary) during the site remediation works could be undertaken as part of a Tree Removal Strategy and proposes a condition to deal with this.

However, the submitted EIA accepts that the loss of trees and other impacts arising from the construction phase in views from outside the site would have a moderate adverse effect on the overall landscape and character of the site. Policy NE21 requires, amongst other things, that trees identified as being worthy of retention should be retained. In this case, the proposals clearly do not achieve this and are therefore contrary to this policy. Consideration will therefore need to be given to assessing the degree of harm that arises to be balanced against the planning benefits of the scheme. This is addressed later in the report.

## **Heritage Issues**

There are no listed buildings or known sites of archaeological interest within the site, although there are a number of listed buildings within the vicinity of the site and a detailed assessment of the heritage assets in the area has been submitted. The nearest listed building is the railway bridge allowing access for Hollas Lane which lies close to the south-eastern corner of the site. However, although the setting of the north side of this bridge would be affected during the construction phase, the proposals would result in the proposed nature reserve becoming the setting for the bridge such that there would be no material harm arising in the longer term.

Further afield, there are views both from within the site and in views beyond where the site is viewed as part of the foreground setting of Wainhouses Tower, a grade 2\* listed building. However, this is at a distance of over 500m from the site and set at a much higher level with areas of developed hillside in the intervening area. As such, it is considered that the construction works

would result in no material harm to the setting of the Tower. English Heritage has been consulted and raises no objections. Similarly, the Council's Conservation Officer raises no objection. As such, the proposal is considered to comply with Policy BE15.

The proposals do involve the removal of the former mill goit and other works in the vicinity of the former Sterne Mill. West Yorkshire Archaeological Service has commented that there is evidence to suggest that there have been previous mills in this location. Furthermore, Milner Royd mill (later to become the dye works) also has potential archaeological interest, as does the existing Sterne Bridge which is to be removed. As such, they recommend that archaeological monitoring, evaluation and recording be carried out and that conditions be attached accordingly. On this basis, the proposal would comply with Policy BE24.

### **Other Issues**

The EIA considers in detail the potential impact on various issues arising during the construction period, including the first phase works. These include air quality, noise and vibration, waste and water resources. Subject to appropriate mitigation measures being carried out, as detailed in the reports, none of these issues is anticipated as giving rise to significant effects. The Environment Agency and Head of Housing & Environment recommend conditions that would also seek to achieve this, and these would include controls over the hours of construction and a scheme to minimise noise impact on local residents during construction.

### **The Outline Application Proposals**

These comprise a mixed development of the site, primarily for employment and housing, but also including community and leisure uses as well as open space provision in four separate development zones. They would be commenced following the various engineering and flood alleviation works being undertaken to provide the platforms for development in each of the three zones where built development is proposed.

As these elements are dealt with as an outline application with all details other than means of access reserved for later approval, there is no clear layout or detailed design to be considered at this stage. Nevertheless, it is necessary for the principle of the various uses within each zone to be established, and for the scale parameters, which set out the upper and lower limits for the development in each zone, to be considered. These include total floorspace figures, building footprint figures, maximum height and number of storeys and maximum number of parking spaces. The intention is to provide some flexibility within each zone in the provision of the range of uses and sizes and types of buildings, whilst setting out maximum limits to work to. A Schedule of Development clearly sets out the limits within each zone.

### **Zone A – The Island**

#### **Principle of residential use**

This zone would be in entirely residential use, with some areas of open space within. Policy E20 refers to "*development of a mixed residential, office and leisure use on Sterne Mill*" as being a focus for the development of this part of the RAA, and also that "*residential development at Sterne Mill will only be allowed as part of a comprehensive scheme to bring the land south of the river forward for development.*"

Document 16 (Additionality Statement) states that the scheme viability is extremely finely balanced even with significant public funding being incorporated into the scheme in relation to the infrastructure works and land remediation. The residential element of the proposals is stated as being necessary to further support the viability of the development of the employment uses (primarily on the south side of the river). As such, the residential uses within the scheme are



considered to be in compliance with Policy E20 and so acceptable in principle. It should also be noted that, as a site specifically allocated for a range of uses, including residential, policy H9 is not applicable to this scheme. Nevertheless, most of the Island zone comprises land formerly part of the Sterne Mill complex and other land, at the western end, formerly used for tipping and as such is considered to be predominantly 'brownfield' site.

### **Amount & Type of Residential Development**

In relation to the intentions as to how the zone should be developed, it is proposed to build between 146 and 200 dwellings with a mix of house-types and including several areas of open space on some 3.19ha of developable land. 0.3ha of this would be in the form of open space areas, including some 'pocket parks', which would provide amenity and recreation areas primarily for the residents of the development. The Design & Access Statement states that they would be predominantly family housing (3-5 bedrooms), but would also make provision for some 1 & 2 bedroomed dwellings. It also states that the houses would be predominantly of 2 to 3 storeys.

The Schedule of Development shows the maximum storey height would be 3 (12m ridgeline), but with up to six 'landmark' buildings of 4 storeys (16m height). There would be a maximum 24,122m<sup>2</sup> total floorspace and 9,971m<sup>2</sup> footprint. The figures set out would give a basic density range of between 45.8 and 62.7 dwellings per hectare. These are clearly medium to high densities and so represent an efficient use of the land and would clearly satisfy the density requirements of Policy H10 (albeit that these have been largely superseded by PPS 3). However, in order to achieve the higher density range it may be necessary to incorporate a larger ratio of smaller house types if the normal requirements for adequate garden sizes and acceptable space about dwellings (as addressed by Policy BE2) is to be satisfied. It should also be noted that the submissions include an Illustrative Masterplan, which provides an indicative layout. This layout provides for 182 dwellings, and although this does have some shortcomings in relation to Policy BE2 guidelines, it is sufficient to demonstrate that the density range proposed could be accommodated within the site.

The range of house sizes proposed gives clear scope to incorporate the policy requirements of H11 and H15 to secure an appropriate mix of house types, including 'lifetime homes' and this is acknowledged in the Design & Access Statement.

### **Residential Amenity**

With regard to the impact of the development upon existing residential properties near to the site, these are all located towards the north-western end of the site. These comprise dwellings on Wakefield Road, dwellings at Canal Mills and an individual dwelling (Millstone Cottage) immediately adjacent to the western end of the site.

Of these, the Wakefield Road dwellings are over 50m away and set at a much higher level than the site. The dwellings at Canal Mills are between 20m and 27m away from the site boundary, and have an angled, rather than a direct relationship. Provided the dwellings on this part of the site are designed and sited accordingly, there is clearly scope to satisfy the Policy BE2 guidelines in relation to the privacy and daylighting of all these dwellings. In relation to Millstream Cottage, this has a side aspect facing the site, but the removal of trees on The Island site would significantly change the aspect enjoyed by this property. A Sunlight & Daylight impact assessment has been carried out as part of the EIA and this identifies Millstream Cottage as being susceptible to overshadowing from the development, depending upon the height and distance of new dwellings from this property. However, it demonstrates that if the new development is restricted in height and distance from the western boundary, these effects can be avoided and compliance with Policy BE2 achieved. Within the development itself, the relationships between dwellings would be addressed at reserved matters stage.

## **Materials, Layout and Design**

Detailed matters of house types, designs, layouts and materials would all be matters for consideration at reserved matters stage. However, it is necessary at this stage to consider the wider impact of development of the scale proposed within the wider landscape and streetscape.

Given that the base level of The Island site is to be raised, generally by around 2-3m, for flood protection reasons, the potential significance for visual intrusion is that much greater. The Schedule of Development envisages a maximum height of 12m from the new (raised) ground levels, with occasional 'feature' buildings higher than this. The EIA has included a Landscape and Visual impact assessment. This considers the development as a whole and acknowledges that the proposals would clearly result in a significant change to the character of the site. It quantifies any adverse changes as "major" - for example, where development would be at considerable variance from the existing landscape character, or would permanently degrade, diminish or destroy valued characteristics and/or cannot be fully mitigated, "moderate" – for example where development would be at variance with existing landscape character or would be judged adverse at a local level (rather than at regional or national levels), "minor" – for example where development would be slightly at variance from the established character and/or where the effects can largely be mitigated and "negligible" – for example where development is compatible with the existing character.

In this case, it assesses the visual impact on a worst case scenario from a range of viewpoints in and around the site, and although the longer distance views are assessed as having "moderate" or "minor" adverse effects, the near views of The Island site particularly, from the riverside footpath (from where there would be close views of a 4m high retaining wall near to the river bank which is to be built for flood defence reasons), the bridleway bridge crossing and the canal towpath are all assessed as having "major" adverse effects.

What has also become apparent is that, because of the elevated ground levels on The Island site, the impact on views from Wakefield Road are also potentially significant. If developed to the maximum parameter height, the dwellings in Zone A would have roof heights set at approximately 2m above the height of Wakefield Road (with 'feature' buildings being taller again). Whilst it is the case that there are trees along the north embankment of the canal which provide a visual filter for views from Wakefield Road, particularly of western half of The Island zone, that function would be reduced when the trees are not in leaf. Furthermore, the views of the eastern half of the zone are less well screened where there is a thinner band of screening trees between the existing Lloyds car park and the canal. The result would be that the development would be very apparent in views from the road such that there would be a clear change to the character and appearance of the streetscene here. Nevertheless, the views have also been assessed with the same methodology as used in the EIA and it is concluded that there would be moderate and minor/moderate adverse impacts.

## **Zone B – The Hub**

### **Principle of residential, office and leisure-type uses**

The E20 policy context here is the same as for Zone A. Thus the residential element is also accepted on the basis that it is an integral part of the comprehensive development proposals that would secure employment development on the south side of the river. The proposed uses for Zone B also include offices (B1), restaurant/bar (A3/A4), community/leisure uses (D1/D2) and retail (A1). In principle, the office use (which is a relatively small amount in this zone) is specifically included under policy E20, although PPS 4 does indicate offices as being a town centre use. The issue of the resultant need for a sequential consideration is dealt with in more detail under the section dealing with zone C where the bulk of the office development is proposed. With regard to the other uses, these are all relatively small scale and intended to fulfil an ancillary role supporting the employment and residential parts of the scheme.

The retail (A1) unit is to have a maximum net floorspace of 280m<sup>2</sup> which, under the terms of Policy S3, represents a small scale unit which can be supported in areas of deficiency. As there are no other shops within easy walking distance, it is considered appropriate that such a use be included in the scheme to serve the local needs of the residents and occupants of/visitors to the employment units on the site as well as employees of the Lloyds data centre which is immediately opposite the site. Such a small unit would have no material impact upon the vitality and viability of nearby centres, and clearly there are no sequentially preferable sites to fulfil the role the unit would undertake. Overall, this element is considered to be acceptable in relation to Policies S2A and S3 of the RCUDP and PPS4.

Similar comments can be made in respect of the restaurant/bar facilities. These are shown as having a maximum floorspace of 1365m<sup>2</sup> and again would be intended primarily to serve residents and occupants of/visitors to the employment units on the site. PPS 4 includes these uses within the 'Leisure' category, and this is also one of the uses envisaged for the site under Policy E20. There are no other RCUDP policies directly relevant to these uses in these circumstances, although there is policy guidance set out in PPS4. However, for these purposes the uses remain as relatively small scale, and given that they are intended to fulfil a function specifically related to the main part of the development, and that there are no similar existing facilities nearby, nor sequentially preferable realistically to serve the development, these uses are also considered to be acceptable.

With regard to the community/leisure uses, these are stated to have a maximum floorspace of 500m<sup>2</sup> and are to enable the option of a day care facility for children and/or medical facilities such as a doctors surgery (D1 uses) and a gym/indoor recreation hall (D2) to be provided. Again these are uses which clearly have a support role to provide for residents and occupants of/visitors to the employment units on the site. Policy CF8 supports day care facilities for children subject to a range of criteria including that it is well located to serve the community it is intended for, has good accessibility, creates no amenity, traffic or other problems and so on. Similar provision apply in respect of a doctors surgery under Policy CF9. There is no specific RCUDP policy guidance in relation to a gym/recreation hall of this small scale, although such a use is given general support under Policy GCF3, again subject to similar criteria. The D2 use is also subject to consideration under PPS4, but again, the same conclusions can be drawn as under the other leisure uses considered above. However, there is a range of other uses within D2 (such as concert and dance halls, outdoor recreation uses) that could give rise to amenity, traffic and other issues and any permission would need to be restricted to the D2 uses specified in the application.

It is therefore concluded that the range of uses proposed for this zone are acceptable in principle.

### **Amount & Type of Development**

The Schedule of Development identifies a developable area of 0.6ha in size for this zone, and identifies two separate areas – Area K for up to two blocks for commercial/leisure and residential apartments, Area L for up to two blocks of townhouses. Area K would provide a maximum of 750m<sup>2</sup> of office floorspace, up to 400m<sup>2</sup> for retail, up to 500m<sup>2</sup> for the D1 and D2 uses, up to 1,365m<sup>2</sup> for the A3/A4 uses and up to 2,820m<sup>2</sup> for up to 26 residential apartments. However, these would all be subject to a combined maximum of 4,603m<sup>2</sup>. Area L would be for up to 8 dwellings to a maximum of 1,320m<sup>2</sup>.

The buildings in the two areas would also be subject to maximum storeys of 5 (16m) for Area K (but with only one of the two blocks being up to this maximum) and 3 (12m) for the townhouses.

## **Materials, Layout and Design**

Again, detailed matters of the building designs, layouts and materials would all be matters for consideration at reserved matters stage. However, it is necessary at this stage to consider the wider impact of development of the scale proposed within the wider landscape and streetscape.

Clearly the buildings in Area K would, potentially, be very prominent being both at the main entrance to the site (from Wakefield Road), and by virtue of their riverside setting. The tallest building here would be up to 5.8m higher than Wakefield Road, although the protected trees to the east of the Hollas Lane junction with Wakefield Road would provide a reasonable effective visual screen in views from the south-east approach along Wakefield Road.

Again the landscape and visual impacts were assessed in the EIA, so although the conclusions were again that the proposals as a whole would clearly result in a significant change to the character of the site, the longer distance views are assessed as having “moderate” or “minor adverse” effects. However, the near views of The Hub site from the riverside footpath, the bridleway bridge crossing and the canal towpath are all assessed as having “major adverse” effects.

Mitigation measures proposed generally include retention of vegetation where possible (although it is apparent that there would be little retained on The Hub site), the provision of new landscaping and tree planting and careful consideration of the type and colour of materials, facade and roof designs of buildings.

## **Zone C – The South Bank**

### **Principle of Employment Uses**

The proposals for this zone are to form a new employment area on 1.77ha of developable land, with up to a combined maximum of 18,560m<sup>2</sup> floorspace for a mix of office (B1), light industry and research & development (B1), general industry (B2) and warehouse/distribution (B8) uses.

Policy E20 refers to “Development of office and industrial use on land south of the River Calder opposite Sterne Mill, including the replacement of existing sports facilities” as being one of the focuses to stimulate economic prospects within the RAA. (Note – at that time it was envisaged that a playing pitch at Milner Royd, on land west of the site, would be incorporated into the regeneration proposals. However, the current proposal does not impact on this area of land and there is therefore no need to replace it). The proposals for Zone C are therefore entirely in accordance with this policy.

Policies E2 and E9 also set out general support for employment developments that, amongst other things, are well-related to their locality, are accessible and do not create amenity, traffic or other problems. Policies GE4 and E18 set out general support for proposals that involve the reclamation and restoration of derelict and degraded land, with a priority for land being re-used for employment purposes, where the proposal is appropriate to the character and function of the locality and where nature conservation issues have been investigated and mitigation measures are taken.

PPS 4 also states that “*Planning applications that secure sustainable economic growth should be treated favourably*” but does go on to set down various criteria in relation to impacts on and by climate change, accessibility, need for high quality design and consideration of impact on economic & physical regeneration and local employment.

In relation to the light Industrial/research & development, general industrial and warehousing/distribution uses, the policies are therefore generally supportive of the proposals in

principle. However, with regard to the offices, there is another policy consideration involved. Both RCUDP policy E7 and PPS4 set out a sequential approach for major office developments (over 1000m<sup>2</sup>), with a preference for town centre and then accessible edge of centre sites, with out of centre sites in sustainable locations being the third tier in the sequence. However, Policy E7 also allows for major office development on appropriate mixed use sites specifically identified in the RCUDP as being as sequentially preferable as town centres. Given that Policy E20 specifically seeks a mixed development including offices, the proposal is considered to comply sequentially with Policy E7.

With regard to PPS4, a sequential analysis has been undertaken, although this has been restricted in its scope to the area around Sowerby Bridge, given that the site's allocation as an RAA has the specific purpose of securing the economic and social prospects of the area between Sowerby Bridge and Copley. However, it is considered that the sequential test has been undertaken realistically, and that it must be considered that the office element of the scheme is specifically identified in Policy E20 as one of the uses envisaged necessary to secure an appropriate regeneration scheme. A critical mass of office development is seen as being essential to meet regeneration objectives for the site. Accordingly, the conclusion that there is no sequentially preferable site that is available, suitable or viable is accepted.

### **Amount & Type of Development**

The Schedule of Development identifies a developable area of 1.77ha in size for this zone. It would provide a maximum of 7478m<sup>2</sup> of office floorspace, and up to 9,395m<sup>2</sup> for each of the other three main use types – light industrial, general industrial and warehousing/distribution. These would be provided in between 6 and 11 separate building blocks of between 1 and 3 storeys in height (between 5-12m). Two areas within the zone are identified – one intended primarily for offices (Area C1) where the maximum height of 12m and 3 storeys would apply, the other being intended primarily for industrial/warehousing buildings (Area C2) where a maximum of 9m and two storeys would apply.

### **Materials, Layout & Design**

Again, detailed matters of the building designs, layouts and materials would all be matters for consideration at reserved matters stage. However, it is necessary at this stage to consider the wider impact of development of the scale proposed within the wider landscape and streetscape.

Zone C would enjoy the benefit of significant screening in the form of the retained trees between Zone C and the river, the trees around the edge of the Milner Royd Nature Reserve to the west and the railway embankment to the south. As such, the more distant views from outside the site (much of which is in the Green Belt and Special Landscape Area), as shown in the Landscape and Visual impact assessment, would be such that the although the development would be visible, it would be 'visually softened' by the context of the surrounding landscape such that it's impact on the overall views of the valley would be relatively minor.

Clearly views from within and close to the site, from the public footpaths and bridleway, and in passing views of train passengers, the visual impact would be much greater, especially given the extensive loss of trees along the south edge of the site. The impact on views of Zone C from Wakefield Road would be more limited because of the distance and intervening development on Zone A and the trees screening provided in Zone D.

## **Residential Amenity**

The nearest existing dwellings to the industrial units in Zone C would be Millstream Cottage and the dwellings at Canal Mills, some 130 – 190m away to the north, and the scattered dwellings on the hillside to the south-west which are at distances of 200-400metres. The proposed dwellings in Zone A would be around 50-60 metres at the closest point.

The Head of Housing & Environment comments that, taking account of existing noise sources such as the railway line and road traffic on Wakefield Road, the proposed dwellings would need to be protected by noise insulation measures and he recommends an appropriate condition accordingly. Potential noise and emissions from the industrial uses would need to be considered as details of each unit comes forward at reserved matters stage, but points out that these would be subject to plot boundary noise limit conditions. Subject to appropriate conditions, the proposals are considered to comply with Policy EP8.

## **Zone D – Open Space**

The proposals for this zone involve no buildings, but the retention of a green corridor through the introduction of various types of open space within an area of just over 6ha on the south side of the river. The land to the east of the new road bridge would be formed into a nature reserve, incorporating a variety of habitats including wetlands and ponds. This area would also provide an area for flood water storage in times of flood. Elsewhere, other land between the river and Zone C would be retained as woodland and would also be subject to planting to form other types of habitat. Further flood water storage areas would also be formed here. This zone also includes the area of replacement allotments being provided in the earlier phases of the development.

Policy GCF1 sets out a general requirement for infrastructure such as open space, nature conservation, landscaping and similar needs arising from development proposals. This zone also seeks to enable the development to maintain the continuity, function and nature conservation value of the Wildlife Corridor, to achieve a biodiversity enhancement and areas to provide replacement tree planting as required under Policies NE15, NE17 and NE21 of the RCUDP, and more generally under PPS9. As such, the proposed uses within this zone are considered to be acceptable in principle.

## **Whole-site issues**

### **Highway Considerations**

The proposals would have an impact on both the local highway network and the strategic highway network – notably the M62 Ainley Top motorway junction. Accordingly, the Highways Agency has been consulted with regard to the latter and, at the time of preparing this report, the application is subject to a Holding Direction from the Highways Agency preventing the Council from permitting the application. The Highways Agency has confirmed to the Council that it will only formally lift the Holding Direction once it has approved the final planning conditions and relevant parts of the Section 106 Agreement.

The Highways Agency has reviewed the assessment of the impact of the development at junction 24 of the M62. In particular it is noted that the development will not result in any material impact at the M62/Blackley New Road roundabout at the 2020 design year. However, the development adds approximately 55 trips to the Ainley Top roundabout approach from the M62 during the AM peak and around 30 trips to the approach from the M62 during the PM peak period. It is also noted that at the 2020 design year, with only base traffic (i.e. excluding development traffic), the roundabout is predicted to operate above capacity in both weekday AM and PM peak periods.

In relation to the above figures and the conclusion relating to the lack of a material impact, the Highways Agency highlight that the Guidance on Transport Assessments states that development proposals should achieve nil detriment to the strategic road network, whilst Circular Department for Transport Circular 02/2007 (Planning and the Strategic Road Network) states that improvements needed to mitigate the impact of development will need to take into account existing problems at the location. In the circumstances of this case the Highways Agency takes the view that the mitigation is best delivered through a robust travel plan.

The developer will make available the necessary funding to fulfil the travel plan obligations, and to ensure that the overall mode targets are met. A Travel Plan Fund would be established to enable a number of initial measures to be provided as part of the overall scheme. This Travel Plan Fund would be secured by way of a Section 106 agreement. A sum of £90,000 is to be provided by the developer as the "Travel Plan Fund" via the S106 agreement. The Travel Plan Fund will be available for use by a Travel Plan Steering Group to spend at its own discretion on the most appropriate combination of measures to encourage non-car travel modes and in order to meet the targets set within the travel plan.

Funding after the first five years will be secured by allocating a proportion of the service charge or ground rent to the Travel Plan Fund, which would be used to fund the administration of the travel plan and any measures that are required.

There has been a series of meetings between the Highways Agency, Local Planning Authority and the applicant and his advisors. The Highways Agency has agreed in principle to lift the Direction subject to approving the final conditions and the relevant sections of the Legal Agreement.

With regard to other highway considerations, including the impact on the local highway network, the Head of Highways & Engineering has stated:

#### "Proposed Signals

The development proposes to take its main access from Wakefield Road / Hollas Lane by means of a new signalised junction. This will provide controlled access arrangements for both vehicles and pedestrians. The junction improvements would be constructed under Section 278 of the Highways Act 1980.

#### **Access Road.**

The access road consists of a spine road that connects Wakefield Road at Hollas Lane with the junction of Canal Road / Fall Lane / Mearclough Road and Holmes Road to the west linking in with Station Road in Sowerby Bridge. This junction will be rationalised as part of the development which is adjacent to the Household Waste Recycling Centre. The improvements will include space for skip vehicles to reverse into the area used for collection and replacement of skips and waiting area off the highway. An improved car park will be provided for users of the allotments accommodating approximately 9 vehicles.

The creation of the new link road will provide an alternative access route for commercial vehicles accessing the Household Waste Recycling Centre in addition to the existing commercial operations on Mearclough Road and Holmes Road. These vehicles currently gain access via Canal Road. Such a proposal will allow the introduction of a weight restriction on Canal Road and Fall Lane Bridge which spans the River Calder. The access road will be constructed to adoptable standards under section 38 of the Highways Act 1980.

## **Pedestrian Access / Public Rights of Way**

As part of the signalised junction arrangements, the proposals will include signal controlled pedestrian crossing facilities across Wakefield Road. The new access road will also provide a new footway along its length connecting in with Mearclough Road and Holmes Road towards Sowerby Bridge.

There are public footpaths along the canal towpath and the river bank. There is a Bridleway through the site referred to as Halifax 678 which enters from Hollas Lane and crosses bridges over the Calder and Hebble Navigation Canal and River Calder. The bridleway then splits into two with a public footpath (Sowerby Bridge 80) running along the southbank of the River Calder towards Fall Lane to the west. The Bridleway (Sowerby Bridge 81) continues along Hollas Lane. Both the footpath and bridleway will have to be diverted slightly to accommodate the new access road arrangements. Applications to divert these rights of way will be secured under the Town and Country Planning Act.

## **Cycling**

National Cycle Route 66 runs along the canal towpath of the Calder and Hebble Navigation Canal adjacent to the site and provides an opportunity to link in with Sowerby Bridge to the west and Calder and Hebble to the east. Both the residential and commercial developments will include adequate cycle parking in line with policy T18 of the RCUDP.

## **Bus Services New Shelters / Real Time**

The development does not propose any enhancements to existing bus stops in relation to shelters or real time display screens. Given the number of trips that could occur if a more frequent bus service were to run, such improvements to bus stop provision would be beneficial. Introducing shelters and Real Time Information at several bus stops represents part of a package of measures to enhance the existing service provision providing future occupiers and others with meaningful alternatives to travel other than use of the private car. It also assists in achieving the travel plan objectives of reducing car usage.

## **Traffic Surveys**

The junctions considered to be most affected by the development traffic are:

1. Wakefield Road / Hollas Lane
2. Fall Lane / Mearclough Lane / Unnamed Road
3. Norland Road / Station Road
4. West Street (A58) / Town Hall Street (A58) / Station Road
5. Wakefield Road (A6026) / Woodhouse Lane
6. Wakefield Road (A6026) / Copley Lane
7. Calder and Hebble Junction (A629/B6112/A6026)
8. Wakefield Road (A6026) / Lloyds Banking Group Access
9. Wakefield Road (A6026) / Washer Lane / Canal Road
10. Wakefield Road (A6026) / Bolton Brow (A58)
11. Tuel Lane / (A6139) / Bolton Brow (A58)
12. Burnley Road / Tuel Lane (A6139)
13. Birdcage Lane / Skircoat Moor Road(A646) / Savile Park Road
14. Savile Park / Free School Lane
15. Burnley Road 9A646) / Achen Way (A58) / Skircoat Moor Road (A646) / Rochdale Road (A58) / King Cross Road
16. Skircoat Green Road / Dryclough Lane (A646)



17. Skircoat Green Road / Huddersfield Road (A629)
18. Heath Road / Skircoat Road (A629)
19. Stainland Road (B6112) / Rochdale Road (B6113)

Fully classified traffic counts were undertaken on the above junctions on Tuesday 20<sup>th</sup> September 2010. From the survey data the busiest hour on the highway network during the morning was 07.45-08.45hrs (morning peak hour) and in the evening 16.45-17.45hrs (evening peak hour). Given the nature of the proposed development, the level of traffic generated at the weekend is likely to be significantly lower than during the week therefore no assessment of the weekend peak period has been undertaken.

### **Traffic Generation**

The traffic generated by the proposed development has been predicted using nationally accepted survey data from similar types of development. The development is predicted to generate in the region of 370 vehicle movements (218 in 156 out) during the morning peak hour and 390 vehicle movements (155 in and 236 out) during the evening peak hour.

It has been agreed to distribute the traffic generated by the development in accordance with gravity model. A Gravity model is a simple assessment technique that uses population within geographic zones as a proportion of the total population within a catchment area to give a likely proportion of trips arriving at and departing from a development site by highway route.

### **Traffic Impact**

Each of the 19 junctions have been modelled using nationally accepted computer software to predict capacity and delay for priority give way, signalised and roundabout junctions. Whilst they all are affected to a greater or lesser degree by the distribution of traffic from the development it has to be accepted that such development forms part of the traffic growth forecasted by the Department for Transport.

However, notwithstanding the above, two of the routes / junctions assessed are considered to take the majority share of the development traffic. These are Wakefield Road / Copley Lane and the Calder and Hebble junction (Wakefield Road / Stainland Road / Elland Wood Bottom).

With regard to Copley Lane the traffic generated by the development turning left up towards Skircoat and coming down towards Wakefield Road is approximately 15% (54 vehicles during the morning peak) This represents a significant increase in vehicle movements on Copley Lane where there limited pedestrian provision. Linked in with Copley Lane being a route to school, this increase in traffic will create additional conflict with pedestrians currently using this route. This is a material concern from a road safety aspect.

Under the safer routes to school programme in 2010, Calderdale Council provided additional signage, lighting and carriageway markings on Copley Lane. The scheme included the removal of the centre line and white lining to indicate a footway on the western side of the road. Whilst drivers can drive over this area, the lining serves to provide greater priority for pedestrians to alert drivers to their presence. However, there have been a number of incidents have occurred where pedestrians including children have been clipped by wing mirrors while walking on Copley Lane.

The Highways Consultant states "Physical constraints along Copley Lane in the form of private properties along the length of the road and a bridge across the railway line mean that there is unlikely to be a simple, affordable mitigation measure that can be implemented to resolve these issues further". Consequently, discussions relating to traffic management in the area will continue, with a view to mitigating the impact of the development.

With regard to the Calder and Hebble junction the traffic generated by the development is in the region of 46% (207 vehicles). The transport assessment accepts there are already capacity issues at this junction and these are likely to worsen in the future even without this development. It states “whilst traffic from this development will exacerbate some of the issues, the underlying capacity issues are already present and are not as a result of the proposed development”.

This statement is not in dispute; however the question is where you draw the line in terms of development traffic adding to the already congested nature of an existing junction. Calder and Hebble junction is identified as the major congestion hotspot in Calderdale through analysis of traffic flows for Local Transport Plan (LTP) development. It is also a major source of delay to core network bus services through the West Yorkshire Bus Partnership and a major obstacle to inward investment to the District by the Council’s Business and Economy section. In 2010 it was subject of two studies by highways consultants Mouchel, working on behalf of Calderdale Council, with regard to potential capacity improvements and improved punctuality of public transport flows through the junction.

The studies considered a number of improvement options and identified a preferred option incorporating full signalisation, provision of a left turn flare from Calderdale Way northbound, and incorporation of a northbound bus lane and bus gate on Stainland Road. Full scheme development and construction was included in the first draft of LTP3 Implementation Plan 1 (2011 – 2014) at an estimated cost of £1.2 million. Following the significant reduction in central government funding for integrated transport schemes the ‘first sift’ of the Implementation Plan identified that estimated scheme costs are more than double the funds available to Calderdale district for highway improvements within the three-year plan. Consequently the scheme was removed from the programme and placed in reserve for detailed design only with a view to reinstatement when and if funding becomes available from LTP or other sources. Given the viability issues relating to the scheme, the developer is not in a position to offer contributions to improve the capacity at this junction.

## **Car Parking**

The residential development will be made up of a maximum of 208 houses and 26 apartments. A total of 312 car parking spaces are proposed for the site. The residential development will be limited to parking policy T18 of the Calderdale RCUDP to ensure adequate car parking provision is provided.

The commercial development will consist of a maximum floor area of 18,560 sq m. It will be split between the B1 / B2 and B8 use classes with a maximum of 275 spaces being provided. The development would be limited to car parking policy T18 of the Calderdale RCUDP to ensure adequate car parking provision is provided.

With regard to The Hub a maximum of 41 car parking spaces is proposed. Again Policy T18 of the RCUDP will ensure adequate car parking is provided.

It is also recommended a number of parking spaces associated with the commercial development incorporate electric charging points reserved for the parking of and charging of electric / hybrid vehicles. The spaces would have to be in a convenient and visible location emphasising each occupier’s commitment to greener travel.

In terms of the specification further discussions would have to take place in terms of the charging post, rate of charge and its design.

## **Sustainability / Accessibility of the Site**

The site is located in Copley on the previous Sterne Mill Wire Works site. It is approximately 2km from the centre of Sowerby Bridge which equates to between 15 and 25 minutes walk to the town centre. The nearest bus stop location is on Wakefield Road where the 531 service (Halifax Ripponden) operates passing the site once every hour in each direction. This is the only bus service passing the site. The nearest railway station is at Sowerby Bridge Railway Station on Station Road. This is approximately 1.5km from the site representing a 10 -15 minute walk.

Metro were consulted on the Planning Application and provided an accessibility assessment on the proposed development.

This assessment considered the following:

- Stage 1 - Current level of public transport operating past the site;
- Stage 2 - Assessment of accessibility to public transport services;
- Stage 3 - Accessibility assessment of the site to other destinations

It is Metro's view that the site is not conducive to encourage sustainable travel. The base bus service is low and would require some enhancements to encourage greater modal shift. Unfortunately it is unlikely that the level of development proposed would generate enough additional demand (revenue) to cover the additional cost of any enhancements. It is therefore not likely that a commercial operator would be prepared to increase service frequencies as a result of the devolvement. Any additional enhancements would therefore have to be funded by the developer. As the development is not likely to generate demand to cover the cost of the enhancements there will be an on-going revenue risk to Metro post any agreed funding period. Metro would not be able to guarantee that the enhanced service would be maintained beyond a developer funded period.

Given the limited public transport links, accessibility to and from the site is considered to be poor, therefore relying on the use of the private car to travel. However, negotiations have identified potential use of a private bus service that currently transport staff of the Lloyds Bank data collecting site to and from Halifax. It is understood an additional bus service can be accommodated by TJ Walsh whereby both the Bank site and the proposed development share the bus service. This could provide a meaningful and practical alternative to both residents and employees of the development site therefore potentially reducing the level of traffic generated by the development.

## **Highways Conclusions**

There is no doubt that the development will benefit certain aspects of the surrounding highway network's day to day operation.

In particular the new access road acting as a new link road would no doubt ease pressure through Sowerby Bridge Town Centre by offering an alternative route (mini by-pass) for private car drivers who are passing through. This would have some benefit to those accessing Sowerby Bridge town centre itself, including pedestrians, where significant congestion is experienced particularly on the High Street. However, the diverted traffic adds pressure on the junctions on Station Road / West Street A58 / Town Hall and the proposed Wakefield Road / Hollas Lane signals. The introduction of a weight limit on Canal Road would greatly assist in the longevity of Fall Lane Bridge and no doubt improve adjacent resident's amenity in this location. Furthermore, the rationalisation of Fall Lane / Mearclough Road junction and the operation of the Household Recycling Centre plus allotment car parking are also considered to be beneficial.

However, this has to be balanced with the traffic generation of the development and its impact on other junctions and or routes, in particular, road safety issues at Copley Lane and increasing congestion at the Calder and Hebble junction. It is a finely balanced planning application in terms of weighing up the highways benefits against the dis-benefits of the scheme, but it is this Service's opinion that overall the development proposals do not comply with the provisions of policies BE5 and BE6 of the RCUDP."

### **Balancing of highways issues**

The concerns expressed by the Head of Highways and Engineering are noted. However, as acknowledged by the Head of Highways and Engineering, the highways issues are finely balanced in their merits. As outlined elsewhere in this report, the benefits of the development may be summarised as:

- 577 FTE net additional jobs (790 FTE gross new jobs)
- £17.2 million net additional local effect from 577 FTE jobs to the local economy
- 130 FTE 1 year net additional construction jobs (134 FTE gross)
- £3.2 million net additional local effect from FTE 1year construction jobs
- 11,389m<sup>2</sup> net additional business/industrial floorspace impact (16,873 m<sup>2</sup> gross)
- 138 dwellings net additional impact (205 gross)
- New Homes Bonus may deliver up to £1.5 million additional receipts over 6 years
- £11 million aggregate investment on infrastructure
- 2km new highway, including two replacement bridges
- Flood defences, alleviation measures and remediated land
- New Local Nature Reserve
- Removal of existing liabilities from contamination, surface and sub-surface materials
- Public sector funding of £6.24m

It should also be noted that whilst it has not proved possible to incorporate measures into the this application to address the Head of Highways and Engineering's concerns about Copley Lane and the Calder and Hebble junction, the opportunity remains for the Council to continue to explore the scope for traffic management measures outside the scope of this planning application.

It is rare for a planning application to offer as many material benefits to the area as outlined above. It is therefore considered that very significant weight should be attached to these benefits. Furthermore weight should be attached to the fact that the site is identified for development under policy E20 of the Replacement Calderdale Unitary Development Plan.

Under the circumstances greater weight should be attached to the benefits of the development, and as such it is not recommended that the development should be refused on highways grounds.

### **Affordable housing**

Both PPS 3 and the Regional Spatial Strategy refer to the need for developments to cater for the provision of affordable housing to address the needs of local communities. Although the RCUDP policy that specifically dealt with the issue (H13) has now been deleted, there remains a general policy commitment to seeking affordable housing. The contribution expected for a residential development of this size would normally be 20% (up to 47 dwellings). However, the application proposes no specific contribution on the basis that the viability of the scheme as a whole is "extremely finely balanced" and the agents point out that the primary purpose of Policy E20 is to "*facilitate the retention of existing employment and encourage further employment opportunities in order to assist in the development of a sustainable community.*" They also point out that the residential element of the scheme is needed in order to cross-subsidise the employment

development and this undermines the ability of the developer to make other contributions to the normally expected levels, including affordable housing. The developers stance is therefore that the absence of affordable housing needs to be weighed against the range of benefits that would flow from the scheme:

577 net full time equivalent jobs and the boost to the local economy arising from that employment  
130 net full time equivalent jobs during the construction period and similar boosts to the local economy

11,389m<sup>2</sup> net business/industrial floorspace impact and 138 dwellings net additional impact

New Homes Bonus

Investment in infrastructure, including two new (replacement) bridges, a new highway link road, flood defences and remediated land. A new nature reserve and removal of liabilities relating to ground contamination.

The Housing and Environment Service has been consulted and has made the following comments:

“The Housing and Environment Service supports the incorporation of 200 homes in this application. Household formation rates in Calderdale and current housing waiting lists illustrate the need for new house building. There are few larger sites available for house building within the Borough. This relatively large flat brown field site at Copley has the advantage of being close to sustainable transport links and facilitating disabled access. As a larger site Policy H15 of the UDP requiring 15 % of homes to be built to lifetime homes would apply as would Policy EP27 requiring at least 15% of predicted energy needs to be generated on site. Development of homes on the site would help to meet housing need and reduce pressure on green field sites.

Housing and Environment Services would normally seek a 20% Affordable Housing contribution. However the Service does recognise the planning merits of the application in terms of the comprehensive regeneration offered, site remediation, job creation and the broader significant planning benefits associated with the development. Independent economic appraisals and scheme analysis have concluded that there is little scope to provide additional planning obligations over and above the delivery of the development as currently financially appraised. Given this, Housing and Environment Services are satisfied that the viability of the proposed scheme would be at risk if an over simplistic affordable housing contribution was imposed.

The applicant’s Affordable Housing Statement confirms that Genr8 will “continue to pursue negotiation on affordable housing on the basis that any agreed planning obligation maintains scheme viability and their agreed minimum developer returns.”

The need for affordable housing has been carefully considered against the economic and regeneration benefits which the proposed scheme would provide and as such our suggested way forward would be to factor the affordable housing issue into the resolution mechanisms specified in the Development Agreement.

It is considered that this approach represents the most appropriate mechanism to ensure a comprehensive redevelopment of the site and the planning benefits associated with this, whilst maximising the potential to secure an element of affordable housing.”

## **Education**

Policy GCF1 states that education (and other) needs generated directly by a development within a local area should be provided for by the developer either on or off-site. An Education Statement is included in the submissions and this considers the position regarding education infrastructure. It accepts that local primary school capacity will be insufficient to serve existing requirements from later on this year, and that the same will apply to secondary schools as from next year.

Demand arising from the scheme proposals is assessed as being 47 primary and 33 secondary school places. However, it is pointed out that the development will be phased over a period of years such that the increased demand would be spread over that period. Provision of developer contributions are subject to the tests set out in Circular 05/05 which advises that there may be site specific circumstances where developer contributions are unfeasible and it is for the decision maker to balance what level, if any, of contribution is appropriate to the circumstances. This position is reflected in paragraph 2.2 of the Council's Supplementary Planning Document on Developer Contributions Towards Meeting Educational Needs:

*“The Council may seek contributions in relation to a wide range of infrastructure costs, such as highways, education, open space and affordable housing and as a result some substantial sums may be involved. In some situations, developers may claim that the proposed development has become unviable, and therefore they would not be willing to enter into agreement to provide funding. In these cases the LPA would be entitled to refuse planning permission on the grounds that the development does not mitigate its impact on the local community, such as overcrowding in local schools, traffic congestion or lack of open-space provision. However it would also be open to the LPA to make a judgment on the balance of advantages and disadvantages on the development and the provision of infrastructure. As a result an “open book” of information regarding the costs involved in developing a site may be requested to enable the planning authority to come to an objective decision. The Council may consider using independent expert mediators to help the process of; validating factual information; negotiating the detail of planning obligations for complex or major applications; or to help to facilitate in dispute resolution where disputes are unduly delaying negotiations.”*

In this case, the developer again points out that the scheme viability is finely balanced and concludes that the scheme viability is such that full contributions towards education infrastructure are not possible, but this needs to be balanced against the various significant benefits that arise from the development as a whole.

In this case the Director of Children & Young People has stated that all local schools are full and a developer contribution of £1,195,046.00 would be required to provide the necessary education infrastructure to accommodate the increased demand arising from the development. The developer is proposing that a contribution of up to £145,000 be made towards this, and on this basis the Director of Children & Young People has expressed the view that this is not an appropriate contribution and therefore objects on this basis.

Further consideration of this is set out in the Balance of Considerations/Legal Agreement issues section towards the end of this report.

### **Open Space Issues**

Policy GCF1 also requires open space needs generated by a development to be provided by the developer, and Policy OS5 requires that new residential developments should meet the recreational needs of the residents. Such needs can be quantified and assessed through the Council's relevant Supplementary Planning Document (SPD). Employment developments creating more than 50 jobs are also expected to contribute to open space facilities. However, paragraph 6.4 of the SPD also states:

*“Where an applicant believes that it would not be economically viable to provide a contribution to public open space in accordance with the required standards, a residual type valuation must be submitted prior to validation of the application to demonstrate how this is the case.”*

In this context, Sport England has been consulted in a non-statutory capacity (as the proposals do not involve the loss of any playing fields). They do raise concerns in relation to the consideration of impact on demand for sports facilities, but raise no objection provided that any sports provision made ensures public access, and that any facilities provided meet Sport England design guidance.

The Asset & Information Management Officer has commented that, whilst the various open spaces proposed within the development would go some way to meeting the needs of the residents and employees at the site, there are some types of open space not provided for (especially outdoor formal sports facilities), and for which there is an existing shortfall in provision, and the demand created by the new development would make that shortfall worse. Therefore, taking account of the various open spaces within the scheme, including the replacement allotments, a reduced contribution of £118,074 towards open space provision has been calculated as being the requirement arising from the development.

In response to these points, the agent states that, whilst it is accepted that the provision of outdoor sports facilities locally is quite low and the development will increase demand, the amount of other types of open space being provided in the development would create “*a significant public resource for the area.*” The agent states that this should be taken into consideration as an alternative type of provision and should be balanced against the provision of a contribution for the improvement of off-site open space provision and so, taking account also of paragraph 6.4 of the SPD as quoted above, proposes no contribution be made towards open space provision.

### **Nature Conservation Issues**

The retention, provision and enhancement of habitats within Zone D, subject to careful consideration regarding the detail of the timing of the provision of these works and subject to appropriate management arrangements being put in place would largely address the various consultee concerns and conditions are proposed to secure these accordingly. Consideration will also need to be given to the size and siting of buildings fronting the canal and the treatment of the maintenance strip along the north side of the river. These would be matters to be dealt with at reserved matters stage.

### **Trees and Landscaping**

Following the flood alleviation and site preparation works to be undertaken in the first phase of development, there should be no need for further loss of trees as construction progresses. However, it would be important to ensure that a good standard of landscaping is incorporated into the development, and again this is a matter to be dealt with at reserved matters stage.

### **Materials, Layout and Design**

Policy GBE1 requires all new development to achieve high standards of design that makes a positive contribution to the quality of the local environment. The more detailed aspects of design, such as set out in Policies BE1, BE2, BE3, BE8 and EP15, are primarily for consideration at reserved matters stage. In general terms though, it is necessary to consider whether development of the type and scale proposed can be designed to achieve these requirements.

The submissions point out that the landscape and visual impact assessment deals with a ‘worst case scenario’, and that in practice, the massing of the development will be far more fragmented, with views between buildings, variations in height and so on. It also argues that the change to the appearance of the site must be considered in the context of a site allocated as a regeneration site and previously developed land. Subject to appropriate consideration of design and detailing at reserved matters stage, the submission is that the proposal would present a visually stimulating and attractive development that would comply with the requirements of Policies GBE1 and BE1.

There is no doubt that the nature and extent of the development will change the existing character of the site, and extensive tree loss would be necessary to accommodate the development as proposed. The submitted Masterplan, though illustrative, does give an indication of the way in which the site would be developed and this would be of a relatively dense form of development where attention to the massing and layout of the building blocks will be important to consider. However, it is assessed that the submitted information is sufficient to demonstrate that the general requirements of policies GBE1 and BE1 can be met within the scale parameters for the development.

### **Heritage Issues**

As with the assessment for the full part of this application, the proposed developments within the various zones, by reason of the distances and intervening land and uses between would not harm the setting of any of the listed buildings around the site, and archaeological interests can be accommodated through appropriate conditions. As such, the provision of PPS5 and policies BE15 and BE24 would be met.

### **Renewable Energy Issues**

Policy EP25 requires all new development to be energy efficient whilst Policy EP27 requires major developments such as this to incorporate on-site renewable energy generation to provide at least 15% of predicted energy requirements within the scheme. The application includes a Sustainability Statement which deals with these issues. This sets out a commitment to achieving an energy efficient development in respect for both the residential and commercial aspects of the scheme. The Statement also considers the potential renewable energy options, and in particular the use of photovoltaic panels, solar water heating and biomass heating. The Sustainability Team have assessed the report and welcome the commitment given to achieve the 15% renewable energy, but point out that a further option to consider would be a hydro-electric turbine. The agent accepts that this does represent another possible option to be considered at reserved matters stage and a condition is suggested to cover this issue. On this basis, the proposal is considered to be in accordance with Policies EP25 & EP27.

### **Crime Prevention**

Policy BE4 refers to the need for consideration of security issues. The application includes a Crime Impact Statement and the Police Architectural Liaison Officer (PALO) has been consulted. He has stated that crime prevention plays an important role, and careful consideration of design, layout and landscaping of new developments can achieve reduction in crime. He also states that crime prevention features should be incorporated and integrated at the design stage, including the principles of 'Secured by Design.' The Crime Impact Statement shows that these have been considered and would be dealt with in detail at reserved matters stage. The PALO recommends various conditions and informatives accordingly.

### **Air Quality**

Policy EP1 states that development causing air pollution will only be permitted where the health and safety of users of the site and surrounding area would not be harmed and it would not harm the quality and enjoyment of the environment. The site does not lie within an Air Quality Management Area (AQMA), although traffic generated by the development could potentially impact on the AQMAs at Sowerby Bridge and Salterhebble. The Head of Housing & Environment (HHE) has commented as follows:



“Calderdale has six Air Quality Management Areas (AQMA’s) declared due to high levels of nitrogen dioxide. By definition the annual average level of NO<sub>2</sub> in such areas is in excess of 40 µgm<sup>-3</sup>. Nitrogen dioxide arises from combustion processes including those within vehicle engines, with local levels influenced by topography, the presence of tall buildings close to the highway which restrict air flows, and the nature and volume of traffic.

One AQMA is at the A629 at Salterhebble, another is centred on the A58/ A6139/ A6142/ A6026 at Sowerby Bridge. Before the Sowerby Bridge AQMA was declared NO<sub>2</sub> monitoring was undertaken at Hollas Lane between May and December 2005 when an average level of NO<sub>2</sub> of 16µgm<sup>-3</sup> was determined. The declared AQMA extends eastward to the junction between the A6142 Wakefield Road and Canal Road. The predominant wind direction over Calderdale is westerly and south-westerly.

Given its low level monitoring at Hollas Lane was discontinued, but general trends are that background levels have fallen. In any event the development site is not within this AQMA but it will create a highway connecting Hollas Lane with Mearclough Road, and ultimately with the A58 at West Street.

Whilst it is certainly not the intention this may allow some A6026 traffic heading west to the M62, and (completed) development traffic, to avoid the town centre. No alterations are proposed to the railway bridge at the junction of Mearclough Road and Station Road and so ease of use of the route is limited. People living en route may be exposed to higher levels of NO<sub>2</sub> than they would otherwise have faced but, having considered the possibility, there is no indication that any increase in levels to any existing residential property en-route would be significantly adversely affected. Likewise traffic to be generated by the completed development in heading to Halifax or Elland may transit via Wakefield Road and Copley, or minor roads towards Pye Nest and Skircoat Green. Again there is no indication that any increase in levels to any existing residential property en-route would be significantly adversely affected.

In my view it is not just the air quality impact of this development in this locality that should be considered. Paragraph 5.9.4 of volume 1 of the applicant’s environmental statement recognises various measures to offset the air quality impact of the operational (ie completed) development activity including the use of electric vehicles, a travel plan and promoting cycling.”

The HHE further comments:

“Whilst I support the introduction of electric vehicles I recognise a circuitous argument promoted in some quarters that links a reluctance of the market to provide electric- and hybrid- powered vehicles to the lack of available facilities to recharge them, which in turn reflects the lack of vehicles designed to use such facilities. The result is that reliance remains on vehicles whose engines rely on combustion of fossil fuel.

In Part 4, paragraph 91 of its 2010 consultation on a planning policy statement for a low carbon future DCLG noted that the Committee on Climate Change has set a target of 1.7 million electric/plug-in hybrid cars by 2020. For that level of electric car usage to be achieved and sustained, an extensive charging infrastructure is required. An infrastructure of 5% of work car park spaces and 25% of homes without access to off-street parking should have standard charging point. The inference is that dwellings with off-street parking should have a wider access still to a charging facility if the targets are to be achieved. Paragraph 92 adds that Planning has an important role to play in facilitating the development of this infrastructure and that local authorities should be encouraged to support the uptake of electric and plug-in hybrid vehicles by providing opportunities for

charging infrastructure within new developments. Although public charging points will also be required, the Department for Transport expects that charging electric vehicles at home will predominate. The provision of opportunities for charging infrastructure in new development is therefore seen as essential. The policy provides a clear steer to developers that they should consider electric vehicle charging infrastructure when designing new development.

On emissions the development itself will no doubt involve combustion activity, whether that be domestic heating or industrial power generation. As stated above the local background NO<sub>2</sub> levels are not a concern. New build will be to current regulatory standards which emphasise heat insulation. Although some site end-uses are yet to be specified I would draw your attention to para 1.47 of Annex 1 of PPS23. Any industrial processes requiring environmental permitting will be subject to requirements under pollution control legislation. It may become clearer at the detailed design stage if conditions relevant to pollution control are required.”

Relevant conditions are recommended accordingly.

### Flood risk & drainage

In relation to flood risk and drainage matters within the site itself, the measures taken at phase 1 of the development would mean that the various zones to be developed would be adequately protected from flood risk and can be provided with appropriate drainage infrastructure to serve the development. Consultations have been undertaken with the Environment Agency, Yorkshire Water, the Flooding & Land Drainage Engineer and the Emergency Services and none has raised objections subject to various conditions being imposed.

### Lighting

On the matter of lighting, the extent and nature of development is such that, in addition to street and footway lighting, there would be other significant areas of lighting introduced to the area which is currently assessed as a ‘low brightness’ area. Policies BE7 and EP5 require that lighting schemes should not significantly harm amenity or have a detrimental impact on the environment and that lighting schemes should be appropriate to the type of area in which they are proposed. Consideration to the impact of artificial lighting is set out in the EIA, both in relation to nature conservation interests and general amenity, and the HHE has commented that it would be appropriate to control artificial light levels through the submission of a lighting scheme, and recommends a condition accordingly.

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### Other Issues raised by objectors

Most of the matters raised by objectors are covered in the assessments above. In relation to other matters raised:

*Allotments and pollution* - Some objectors have also raised concerns about potential pollution issues arising in relation to both the existing and propose allotments, firstly arising from vehicle emissions from the new road link which would pass close to the existing allotments, and secondly from potential ground contamination in the area proposed for the replacement allotments. The HHE has also considered these points and comments:

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“One of the objections refers to concerns about queuing road traffic adjacent the Milner Royd allotment site and the potential to cause “excessive benzene/carbon monoxide poisoning” Whilst it is appreciated that traffic volumes will increase on this road as a result of the development it is not considered that emissions of benzene and carbon monoxide will have any detrimental effect on human health or on the crops growing in the allotment. This view is based on the research, data gathering and air quality monitoring undertaken by the Council.

The Council has a responsibility to monitor and report on air quality with a view to ensuring air quality within the Borough meets the standards and objectives laid down in the Air Quality Strategy for England, Scotland, Wales and Northern Ireland. This work has been undertaken since the late 1990’s and reports are available on the internet. In relation to benzene and carbon monoxide these are not pollutants that are a major concern within Calderdale. We have no sources, including the busy M62, which are likely to exceed the air quality objectives for these pollutants.”

With regard to contamination where the new allotments are proposed, it is intended to place a 1m deep ‘cap’ of clean cover material here. As such the HHE states:

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“A concern was raised by an objector regarding the proposed remediation of the area of land on which the new additional allotment site will be situated. The concern related to the proposed depth of new soil which will be placed on the site. Whilst initial discussions between the Council and the consultants have been undertaken and suggestions of replacing existing soil with 1 m clean cover have been discussed, the full extent of the remediation has not been finalised. The consultants report suggests in paragraph 7.6.39 and 7.6.106 that further assessment and consideration of subsoil and growing medium for the allotment area will be required. A condition has been recommended to this effect.”

*Increased insurance premiums* – this is not a planning issue, although the assessment in relation to flood risk is that the development would not increase the risk of flooding to other properties either up or downstream from the site.

*Loss of jobs* – the retail element within the proposal is a very minor part and is assessed as having no material impact on the vitality or viability of the nearby town centres. In relation to other employment uses, the proposal is specifically intended to improve job opportunities locally and was the main purpose of allocating land as a Regeneration Action Area. The Head of Business & Economy has commented that this is the most significant employment development proposal since the Lowfields Business Park at Elland, and that the new jobs created would be “positively significant for the local economy.”

*Scheme is illegal as it is secondary to the Holmes Road part of site E20* – whilst Holmes Road is within the RAA which is subject to Policy E20, there is no requirement within the policy for the whole of the RAA to be developed at the same time, and indeed the proposed provision of new office/industrial units within the application site and the proposed link road and both elements that would facilitate further regeneration at Holmes Road in the future should this be pursued.

*Negative impact on house prices* – this is not a planning issue

*Land should be kept as Green Belt* – that part of the site that lies within the Green Belt (the nature reserve) will be retained as open land and will stay as Green Belt.

*Fails to meet social community directives* – it is not clear what this objection refers to or its relevance as a planning consideration.

*Will destroy tourism potential of the canal corridor* – the proposals would not materially harm the ecology or recreational use of the canal, and although the development would clearly alter the character of this section of the canal, the proposal still has the possibility for providing an attractive

frontage to the canal through the appropriate use of materials and design of the buildings along this frontage, and this would be considered at reserved matters stage.

*Population figures quoted are misleading and are an underestimate* – the figures quoted within the application submissions are taken from appropriate and reliable sources

*Agricultural land declaration has been incorrectly completed* – the submitted certificate stating that none of the land forms part of an agricultural holding has been correctly completed.

*Availability of doctors surgeries* – the EIA includes a section which considers the potential impact of the development on local infrastructure generally, including local GP practices. This indicates that there are 12 practices within 2 miles of the site, all accepting new patients at the time the survey was undertaken. In addition, there is scope within Zone B of the development for a doctors surgery to be accommodated as one of the options for uses within this zone.

### **Balance of Considerations/Legal Agreement issues**

It will have been seen from the above, that there are a number of issues arising where developer contributions would normally be expected in order to satisfy Policy GCF1, but where the developer has made a case that either no, or less than full, contributions should be accepted because of the finely balanced nature of the scheme viability.

The minimum developers return was market tested and agreed by Calderdale MBC and Yorkshire Forward as part of the process that resulted in GenR8 being selected to develop the site. The latest scheme appraisal which has been verified by Calderdale's external commercial agents demonstrated that the minimum developers return on the project would be reduced should construction costs increase marginally.

In the light of the scheme's economics, the applicant has argued that the maximum sum that can be directed to planning obligations is a payment of £1,000 per dwelling unit created. Monies generated would be apportioned firstly to education facilities and secondly to transport/highway provision. It is anticipated that £145k could be directed to education and £90k directed to transportation. Notably the applicant is not offering to make any contribution to affordable housing or public open space.

In relation to the former, the applicant argues that any provision is a development cost and a negative impact on scheme viability. The applicant goes on to argue that "*RCUDP policy E20 permits housing to support the wider scheme viability in manner of cross-subsidy. Ergo the housing subsidises the other employment, land remediation and infrastructure for the regeneration. To call on the housing to subsidise affordable housing would diminish the support for the central regeneration objectives of policy E20 and attacks the fundamental scheme viability within the Development Agreement.*"

In relation to public open space, the applicant argues that "the inherent scheme benefits of over 6 hectares (15 acres) of public open space including a Local Nature Reserve, extended and new allotment space, civic space, amenity and play spaces more than balances the needs of RUDP policies OS5 and GCF1".

Circular 05/05 allows local planning authorities to take into consideration wider scheme objectives and viability when determining the need for planning obligations:

*"In some instances, perhaps arising from different regional or site-specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported, for example, by*

*local or central taxation. If, for example, a local authority wishes to encourage development, it may wish to provide the necessary infrastructure itself, in order to enable development to be acceptable in planning terms and therefore proceed, thereby contributing to the sustainability of the local area. In such cases, decisions on the level of contributions should be based on negotiation with developers over the level of contribution that can be demonstrated as reasonable to be made whilst still allowing development to take place.” para.B10*

In order to help the Council come to a view on the balance that should be struck between planning obligations and the aims of the development (i.e. as expressed through policy E20 of the RCUDP), the applicant has used the English Partnerships approach to quantify the benefits or ‘additionality’ as associated with the development (English Partnerships Additionality Guide 3rd Edition (October 2008)). In summary these include:

- 577 FTE net additional jobs (790 FTE gross new jobs)
- £17.2 million net additional local effect from 577 FTE jobs to the local economy
- 130 FTE 1 year net additional construction jobs (134 FTE gross)
- £3.2 million net additional local effect from FTE 1year construction jobs
- 11,389m2 net additional business/industrial floorspace impact (16,873 m2 gross)
- 138 dwellings net additional impact (205 gross)
- New Homes Bonus may deliver up to £1.5 million additional receipts over 6 years
- £11 million aggregate investment on infrastructure
- 2km new highway, including two replacement bridges
- Flood defences, alleviation measures and remediated land
- New Local Nature Reserve
- Removal of existing liabilities from contamination, surface and sub-surface materials and bridge maintenance [bridge maintenance is not a planning liability and therefore no weight has been attached to this

The direct value of the public sector intervention in this scheme is £6.24m. This is comprised of £0.94m from Growth Point funding, with the remainder (£5.30m) coming from Yorkshire Forward’s Single Pot through the Sub Regional Investment Plan.

In relation to the job creation benefits identified above, it should be noted that a statement issued by Greg Clark MP, Minister for Decentralisation on 23<sup>rd</sup> March 2011, stated that:

*“In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions.”*

Having regard to the economic viability of the development and the benefits that it would deliver, it is considered that it would inappropriate in this instance to require planning obligations at a scale that would jeopardise prospect of the development proceeding. Under the circumstances it is therefore considered that the Council should accept the offer of £1000 per unit, as outlined above.

The Heads of Terms for the S106 Legal Agreement shall cover matters of a master travel plan, education contribution and provision of fish pass at Copley Weir subject to options and scheme viability. The master travel plan will provide measures and controls to deliver a 10% reduction in trip generation through a fund of £90,000. A travel plan coordinator and travel plan steering group including CMBC, Metro and Highway Agency will deliver the measures through construction and up to 5 years following completion of the development. Education contribution will be provided up to £145,000 based on a pro rata payment of £1,000 per dwelling, the other proportion funding the travel plan contribution which is ring fenced at £90,000. The education contribution will fund primary school places. The fish pass at Copley Weir will be provided following a detailed investigation of possible options and a test of viability to implement or contribute toward implementation.

## **Summary**

The proposed development will give rise to some adverse impacts as set out above. However, this is a major application that represents a substantial regeneration scheme on largely previously developed land within an area specifically allocated in the development plan for such purposes. It also has very significant benefits that need to be weighed against the concerns. These are set out in the preceding section and not least being the prospect of net 577 FTE jobs being created and the provision of around 200 or more new dwellings.

## **CONCLUSION**

**On the balance of these considerations the proposal is considered to be acceptable subject to the conditions specified below and to the completion of a legal agreement as specified in the report. The recommendation to be mindful to grant planning permission has been made because the development, including the recommended conditions and legal agreement, is in general accordance with the policies and proposals in the Replacement Calderdale Unitary Development Plan set out in the 'Key Policy Context' section above with the exception of Policies BE5, BE6, GCF1 and NE21. However, for the reasons set out in the Balance of Considerations and Summary sections of the report above, it is considered that the policy conflicts are not sufficient in this case to justify refusal of the application.**

Geoff Willerton  
Head of Planning

Date: 26.05.2011

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## **Further Information**

Should you have any queries in respect of this application report, please contact in the first instance:-

Peter Melhuish (Case Officer) on Tel No: 392265

or

Richard Seaman (Development Manager) on Tel No: 392241

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## **Conditions**

1. The development of the highway infrastructure, new river bridge, new canal bridge, land remediation, local nature reserve, grading and levelling, flood defences, flood storage areas and allotments as shown on the hereby approved plans must be begun no later than the expiration of three years beginning with the date of this permission.
2. All applications for approval of reserved matters shall be made not later than the expiration of seven years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of reserved matters, or, in the case of approval on different dates, the final approval of the last such matters to be approved.
3. The development shall not begin, other than those matters approved in detail as set out in Conditions 1 and 4, on any phase or plot within the development site for which outline planning permission has been hereby granted until full details of the following matters in respect of that phase or plot within the development as defined in the General Development Procedure Order 1995 (as amended) have been submitted to and approved in writing by the Local Planning Authority:
  - a) Appearance;
  - b) Scale;
  - c) Layout; and
  - d) Landscaping

The development shall thereafter be implemented in accordance with the details so approved and so retained thereafter.

4. The development hereby approved shall be carried out in accordance with the submitted Plans as specified above together with the Design and Access Statement (Document 3 v2) and the Schedule of Development (Document 18 v3) and in full accordance with the following documents submitted with the application:

Planning Statement  
Regeneration Statement  
Environmental Statement  
Flood Risk Assessment  
Transport Assessment  
Travel Plan  
PPS4 Assessment  
Sustainability Assessment  
Open Space Assessment  
Education Statement  
Crime Impact Statement  
Additionality Statement  
Affordable Housing Statement  
Employment Report  
Statement of Community Involvement  
Environmental Risk Assessment & Site Wide Remediation Strategy

5. No application for reserved matters shall be made until a scheme for the phasing of development across the whole development site for which outline planning permission has been hereby granted has been submitted to and agreed in writing by the Local Planning Authority. The phasing scheme shall include the following matters:
  - a) A plan demarcating the development phases;
  - b) Details of development plots, uses and floorspaces by development phase; and

c) A programme of delivery of development phases

All reserved matters applications and consequent development shall be made in accordance with the approved phasing scheme, or any subsequent submitted and approved amendments to the phasing scheme, unless otherwise agreed in writing by the Local Planning Authority.

6. Prior to the commencement of any development a scheme for the phasing of the work approved in detail (highway infrastructure, new river bridge, new canal bridge, land remediation, local nature reserve, grading and levelling, flood defences, flood storage areas and allotments as set in Condition 4) shall have been submitted to and agreed in writing by the Local Planning Authority. The phasing scheme shall include the following matters:

- a) A plan demarcating the development stages;
- b) Details of how ecological mitigation sites will be formed and delivered; and
- c) A programme of delivery of development stages;

The works shall be carried out in accordance with the approved phasing scheme unless otherwise agreed in writing by the Local Planning Authority .

7. Any development within Zone A The Island as shown on hereby approved Plan 23 Parameter Plan: EIA Development Zones, shall be brought forward in accordance with the approved Schedule of Development (Document 18 v3) and the following main parameters:

a) The approved uses shall be for residential, open space, car parking and ancillary uses;

b) The maximum number of new residential properties shall be 200 dwellings with a maximum new gross floorspace of 24,121m<sup>2</sup> and a maximum gross footprint of 9,971m<sup>2</sup>;

c) The maximum number of car parking spaces shall be for 300 spaces within curtilage and/or garage and/or undercroft arrangement with the maximum area for any undercroft parking to be 11,400m<sup>2</sup> including all circulation areas, access and egress points;

d) Other than up to six buildings of no more than 4 storeys (not higher than 16 metres from ground level to ridgeline), the dwellings shall be no more than 3 storeys (not higher than 12meters from ground level to ridgeline)

e) The minimum area for open space shall be 3,000m<sup>2</sup> provided over a minimum of two separate spaces; and

f) Incorporation of new flood defences and access along the River Calder through the zone

8. Any development within Zone B The Hub as shown on hereby approved Plan 23 Parameter Plan: EIA Development Zones, shall be brought forward in accordance with the approved Schedule of Development (Document 18 v3) and the following parameters:

a) The approved uses shall be for residential, retail/leisure food & drink office, crèche, day nursery, doctor's surgery, gymnasium, indoor/outdoor recreation, open space, car parking, highway infrastructure, river bridge and canal bridge and ancillary uses;

b) The maximum new gross floorspace shall be 5,385m<sup>2</sup> and with a maximum of 4,603m<sup>2</sup> within Area K and 1,320m<sup>2</sup> within Area L;

c) The maximum gross retail (Class A1) floorspace shall be 400m<sup>2</sup> (280m<sup>2</sup> net floorspace) and shall be located on the ground floor including an mezzanine within Area K;

d) The maximum gross office (Class B1) floorspace shall be 750m<sup>2</sup> and shall be located on the ground floor including any mezzanine within Area K;

e) The maximum gross restaurant, café or food & drink establishment (Classes A3 and A4) floorspace shall be 1,365m<sup>2</sup> and shall be located on the ground and/or first floor including any mezzanine level within Area K;

f) The maximum indoor leisure, gymnasium, crèche, day nursery, doctor's surgery uses (Classes D1 and D2) floorspace shall be 500m<sup>2</sup> and shall be located on the ground and/or first floor including any mezzanine level within Area K;



- g) The maximum number of residential dwellings shall be 34 with no more than 26 apartments in Area K and no more than 8 townhouses provided within Area L;
  - h) The maximum number of car parking spaces shall be 41 spaces formed within surface, undercroft and on street within Area K and 12 spaces formed within surface and/or undercroft within Area L
  - i) The maximum height of building within Area K shall be 5 storeys (not higher than 16 metres from ground level);
  - j) The maximum height of any building within Area L shall be 3 storeys (not higher than 12 metres from ground level to ridgeline);
  - k) No more than two new buildings or plots with a combined maximum gross footprint of 1,000m<sup>2</sup> shall be formed within Area K and no more than two buildings or plots with a maximum gross footprint of 440m<sup>2</sup> formed within Area L;
  - l) Incorporation of new flood defences and access along the River Calder through the zone; and
  - m) Incorporation of new access road, Wakefield Road junction, canal bridge and river bridge
9. Any development within Zone C South Bank as shown on hereby approved Plan 23 Parameter Plan: EIA Development Zones, shall be brought forward in accordance with the approved Schedule of Development (Document 18 v3) and the following parameters:
- a) The approved uses shall be for offices, light industry, research & development, general industry, distribution & warehousing, car parking and ancillary uses;
  - b) The maximum new gross floorspace shall be 18,560m<sup>2</sup>
  - c) The maximum office (Class B1) gross floorspace shall be 7,478m<sup>2</sup>
  - d) The maximum light industry and research & development (Class B1) gross floorspace shall be 9,395m<sup>2</sup>
  - e) The maximum general industry (Class B2) gross floorspace shall be 9,395m<sup>2</sup>
  - f) The maximum distribution and warehousing (Class B8) gross floorspace shall be 9,395m<sup>2</sup>
  - g) The maximum number of car parking spaces shall be for 275 spaces;
  - h) Car parking spaces shall be provided in accordance to use class (B1, B2 or B8) as set out in UDP Policy T18.
  - i) The maximum footprint of all new buildings shall not exceed 8,836m<sup>2</sup>
  - j) No more than 11 and no less than 6 new buildings or plots shall be formed within the zone;
  - k) The maximum height of any building within Area C1 shall be 3 storeys (not higher than 12 metres from ground level);
  - l) The maximum height of any building within Area C2 shall be 2 storeys (not higher than 9 metres from ground level);
  - m) Incorporate new link road, new river bridge landing and Hollas Lane link; and
  - n) Incorporation of new flood defences
10. Any development within Zone D Open Space as shown on hereby approved Plan 23 Parameter Plan: EIA Development Zones, shall be brought forward in accordance with the approved Schedule of Development (Document 18 v3) and the following parameters:
- a) The approved uses shall be for public open space, local nature reserve, allotments, highway infrastructure and ancillary uses;
  - b) Incorporate new link road, new river bridge landing, Hollas Lane link and Mearclough Road / Canal Road / Fall Lane junction;
  - c) Incorporate new flood defences and flood storage area;
  - d) New Local Nature Reserve
11. No development of the highway infrastructure, new river bridge and new canal bridge (as approved in full) shall take place until details of the following matters are submitted and agreed in writing by the Local Planning Authority:
- a) Street lighting;

- b) Bridge facing materials;
- c) Retaining walls; and
- d) Facing materials (including colour) for the bridge parapets.

Notwithstanding the submitted plans, any stonework shall be regularly- coursed and with a natural coloured pointing that is flush or slightly recessed from the face of the stone.

12. Notwithstanding the approved plans, details of any Traffic Regulation Orders along Wakefield Road and Hollas Lane as a result of the new junction arrangements shall be submitted to and approved in writing by the Local Planning Authority. The proposed Traffic Regulation Orders shall be formally advertised for public consultation prior to development becoming occupied to the reasonable satisfaction of the Local Planning Authority.
13. Prior to any development commencing, a traffic management scheme for the entire construction period shall have been submitted and approved in writing by the Local Planning Authority. The scheme shall include details of construction vehicle parking, operative access, off street parking provision for the delivery of plant and materials, wheel washing facilities, signage arrangements, hours of operation, publicity arrangements and a permanent contact / Traffic Manager once development works commences to deal with all queries and authorised by the developer / contractors to act on their behalf. The appointed contact / Traffic Manager will use all reasonable endeavours to set up a consultation panel with affected parties prior to work commencing and the scheme so approved shall then be implemented for the construction period.
14. Notwithstanding the submitted plans, none of the buildings shall be occupied until the Local Planning Authority has approved in writing a full scheme of works for the proposed signalised junction and pedestrian crossing facilities on Wakefield Road / Hollas Lane. The approved scheme shall be constructed in accordance with the plans prior to first occupation of any of the buildings.
15. Notwithstanding the submitted plans, none of the buildings shall be occupied until details of all relevant Traffic Regulation orders in association with the Weight Limit on Canal Road have been submitted for Public Consultation.
16. Notwithstanding the submitted plans, none of the buildings shall be occupied until the Local Planning Authority has approved in writing a full scheme of works for the improved pedestrian crossing facilities at the Wakefield Road / Copley Lane junction. The approved scheme shall be constructed in accordance with the plans prior to first occupation of any of the buildings.
17. Within three months of any of the development first becoming operational details of a Draft Travel Plan for Staff shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include a permanent contact for all Travel Plan issues relating to the development and objectives set in order to reduce the reliance on the private car. The details shall also include all monitoring procedures at years 1, 3 and 5 post development in association with the West Yorkshire Travel Plan Network. The approved Travel Plan shall be implemented within 6 months of the development becoming operational and maintained in accordance with the objectives as set out in that plan.
18. Notwithstanding the submitted plans, none of the buildings shall be occupied until the Local Planning Authority has approved in writing a full scheme of works for the access road from Wakefield Road west towards the Mearclough Road / Fall Lane junction. The approved scheme shall be constructed in accordance with the plans prior to first occupation of any of the buildings.

19. Notwithstanding the submitted plans, none of the buildings shall be occupied until the Local Planning Authority has approved in writing a full scheme of works for the rationalisation of the Mearclough Road / Fall Lane junction, operational works associated with the Sowerby Bridge Household Waste Site and car parking provision for the allotments. The approved scheme shall be constructed in accordance with the plans prior to first occupation of any of the buildings.
20. Any application for the approval of reserved matters for any phase or plot shall be accompanied by a Travel Plan that will reference the hereby approved Master Travel Plan to set out detailed measures proposed to encourage sustainable transport options including details of any necessary support infrastructure. The Travel Plan shall include the following matters:
  - a) Details of the Travel Plan Co-ordinator;
  - b) Measures to reduce the number of unnecessary single occupancy car trips to and from the site; and
  - c) Details of recharging infrastructure for electric vehicles.Such agreed measures and infrastructure shall be brought into effect prior to first occupation of the relevant phase or plot and shall be maintained thereafter, unless otherwise agreed in writing by the Local Planning Authority.
21. No building, or unit therein, within any phase or plot shall be first occupied unless its associated car, cycle and motorcycle parking provision has been completed and made available for use. The car park shall thereafter be retained for that purpose for the occupiers of and visitors to the development.
22. Unless otherwise agreed in writing by the Local Planning Authority, any application for reserved matters for Zones A, B or C shall include satisfactory provision for car parking based on the final proposed floorspace for each use within the respective zone in accordance with Policy T18 of the Replacement Calderdale Unitary Development Plan.
23. Unless otherwise agreed in writing by the Local Planning Authority, no development affecting Bridleway Halifax 677 or the riverside public footpath on the south side of the river shall commence until details to protect this bridleway, along Hollas Lane between Wakefield Road and the Hollas Lane Railway Bridge, and the public footpath along the southern bank of the River Calder between Fall Lane and Hollas Lane, during construction has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to that development commencing on site and shall be retained until those parts of the development have been completed.
24. Unless otherwise agreed in writing by the Local Planning Authority, within 3 months following completion of the works hereby approved in detail (highway infrastructure, new river bridge, new canal bridge, local nature reserve, land remediation, grading and levelling, flood defences, flood storage areas and allotments as set out in Condition 4) the amended routes of Bridleway Halifax 677 and the public right of way footpath shall have been laid out and made accessible for public use in accordance with submitted plan 13c issue 2 (dated 14/01/11).
25. Unless otherwise agreed in writing by the Local Planning Authority, access to existing Lloyds Bank car parks off Hollas Lane shall be maintained at all times throughout construction to the reasonable satisfaction of the Local Planning Authority.
26. Notwithstanding the approved plans, prior to development commencing details of alternative car parking arrangements for the Lloyds staff shall have been submitted to and approved in writing by the Local Planning Authority. The alternative car park arrangements so approved

shall be made available for use by Lloyds staff prior to development commencing and shall be retained until such a time when the construction of the retaining wall adjacent to the existing Lloyds car park and associated works have been completed.

27. Unless otherwise agreed in writing by the Local Planning Authority the development shall be carried out in accordance with the mitigation, compensation and enhancement measures set out within Part 6 (Ecology & Nature Conservation) of the Environmental Statement (Document 4) and the submitted Ecology Surveys which are as follows (Appendix L of Environmental Statement (Document 5)); Report 1 - Phase 1 Habitat Survey (November 2010), Report 2 - Aquatic Plant Report (October 2010), Report 3 - Amphibian Survey (November 2010), Report 4 - Breeding Bird Survey (July 2010), Report 5 - Bat Survey (January 2011), Report 6 - Crayfish Survey Report (October 2011) and Report 7 - Shading Assessment for Macrophytes (February 2010)
28. Notwithstanding details on the submitted plans, prior to the commencement of development details of the location, scale and external appearance of bat boxes located within available soffits on the bridge structures and a timetable for their provision shall be submitted to and approved in writing by the Local Planning Authority. The bat boxes shall then be installed in accordance with the details so approved and shall be retained as such thereafter.
29. A Site Management Plan (SMP) for nature conservation for the local nature reserve and open space within Zone D (as defined on Plan 23 - Parameter Plan) including timetable for implementation shall have been submitted to and approved in writing by the Local Planning Authority prior to the completion of the construction of the hereby approved highway infrastructure, new river bridge, new canal bridge, land remediation, local nature reserve, grading and levelling, flood defences, flood storage areas and allotments (as approved in full). The approved SMP shall be implemented and maintained thereafter in accordance with the approved details following the completion of the hereby described infrastructure works unless otherwise agreed writing by the Local Planning Authority.
30. Unless otherwise agreed in writing by the Local Planning Authority a Site Management Plan (SMP) for maintenance of open space (excluding private gardens) within Zones A, B and C (as defined on Plan 23 - Parameter Plan) shall have been submitted to and approved in writing by the Local Planning Authority prior to the completion of the construction of any development phase or plot within these zones. The approved SMP shall be implemented and maintained thereafter in accordance with the approved details following the completion of the construction within the relevant phase or plot unless otherwise agreed in writing by the Local Planning Authority.
31. Any application for the approval of reserved matters for any phase or plot shall be accompanied by a scheme of landscaping for the relevant phase or plot covering all landscaped areas including associated public realm improvements, but excluding private gardens for the written approval of the Local Planning Authority. This scheme shall include details of all existing trees and hedges on the land and details of any to be retained along with a scheme for the maintenance of the landscaped areas.
32. Upon approval of the landscaping details pursuant to Condition 31 of this permission, all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner; and shall be so retained thereafter, unless any trees or plants within a period of 5 years from the completion of development phase or plot die, are removed or become seriously damaged or diseased. These shall be replaced in the next planting season with others of similar size and species,

(unless otherwise agreed in writing by the Local Planning Authority) and these replacements shall be so retained thereafter.

33. Prior to the commencement of development, a scheme for the replacement allotments within Zone D, including a ground contamination mitigation scheme, details of parking, layout and boundary treatment, shall have been submitted to and approved in writing by the Local Planning Authority. Preparation of the replacement allotments shall be implemented in accordance with the agreed scheme unless otherwise agreed in writing by the Local Planning Authority. The replacement allotments shall be made ready for occupation prior to any works resulting in the loss of any existing allotment space.
34. Prior to the commencement of development a detailed remediation scheme to bring the site to a suitable condition for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall have been prepared, submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
35. Prior to the commencement of any development on the site a programme for the implementation of the approved remediation scheme (as set in Condition 34) including phasing of the works and including a timetable for written notification of commencement of each phase of the remediation scheme works shall have been submitted to and approved in writing by the Local Planning Authority. These remediation works shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and be submitted to the Local Planning Authority.
36. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 34, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 35, which and is subject to the written approval of the Local Planning Authority. These remediation works should be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority. Following completion of the measures identified in the approved remediation scheme a verification report must be prepared, and submitted to the Local Planning Authority in accordance with condition 35.
37. A scheme to provide for the long term monitoring of the effectiveness of the proposed remediation measures and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be in accordance with DEFRA and the Environmental Agency's 'Model procedures for the management of land contamination, CLR11' monitoring and maintenance.

38. Prior to the commencement of the highway infrastructure, new river bridge and new canal bridge (as approved in full) details of surface water drainage of the public highway shall be submitted to and approved in writing by the Local Planning Authority. The public highway shall then be constructed in accordance with the details so approved and shall be so retained thereafter.
39. Prior to the commencement of any works relating to a reserved matters approval a drainage scheme for that phase or plot shall have been submitted to and approved in writing by the Local Planning Authority. This shall demonstrate how it accords with the submitted drainage strategy (dated January 2011) and include drawings, sections, hydraulic calculations, storage tank and basin volumes and level controls and any required discharge consents. Criteria for peak discharge of surface water from developed and undeveloped area of the site will be limited as follows;
  - 1 in 1 year rainfall event - 5.15 l/s/ha
  - 1 in 30 year rainfall event - 10.52 l/s/ha
  - 1 in 100 year rainfall event - 12.44 l/s/ha
40. Unless permeable paving including foundation layers designed to promote bio-degradation of hydrocarbons is proposed, surface water from vehicle parking and hardstanding areas shall be passed through an interceptor of adequate capacity prior to discharge to the public sewer. Roof drainage should not be passed through any interceptor.
41. Prior to the commencement of any development of any works other than those associated with the construction of the hereby approved highway infrastructure, new river bridge, new canal bridge, land remediation, local nature reserve, grading and levelling, flood defences, flood storage areas and allotments (as approved in full), an investigation shall be carried out by the developer to determine the depth and route of the existing Sewerage Pumping Main (SPM) and to determine the depth and route of all other existing sewers within the site. Details of this investigation shall be submitted to the Local Planning Authority and a protection zone for the SMP and other sewers agreed in writing in consultation with Yorkshire Water. The agreed protection zone will meet the easements widths for sewers within Sewers for Adoption (6th Edition March 2006 or any subsequent published versions). Where required to facilitate development, the route of the SPM and associated protection zone shall be diverted such that no building is constructed within the protection zone width. The development shall be carried out in accordance with the agreed protection zone unless otherwise agreed in writing by the Local Planning Authority .
42. Unless otherwise approved in writing by the Local Planning Authority, no new piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall for surface water have been completed in accordance with details to be submitted to and approved in writing by the Local Planning Authority before development commences.
43. Unless otherwise approved in writing by the Local Planning Authority, there shall be no new piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.
44. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Arup dated February 2011 (FRA/001 Rev.A) and the following mitigation measures detailed within the FRA, unless otherwise agreed in writing by the Local Planning Authority, in consultation with the Environment Agency:

- Flood mitigation measures as detailed in Section 5.2 and as shown on Drawing No ARPLAY-CDP1-350
- The ground levels of development areas and finished floor levels of new dwellings shall be no lower than levels as stated in Section 5.2.
- The construction shall be phased and delivered in accordance with the phasing and order as detailed in section 5.4. In particular, the Flood Storage Wetland works detailed in 5.2 shall be operational prior to any raising of ground levels on the development plots that could otherwise increase flood risk to areas outside of the development.

45. Prior to the construction of the flood mitigation measures as detailed in Section 5.2 of the Flood Risk Assessment , a scheme for long term maintenance and operation of these elements of the works shall have been submitted and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved scheme.
46. Prior to the commencement of each phase of development on the Island (Zone A) and Hub (Zone B) zone sites, a detailed flood risk assessment and drainage strategy shall have been submitted to and approved in writing by the Local Planning Authority. The phases shall proceed in accordance with the approved schemes.
47. Prior to the commencement of development on any phase or plot within the development site a Site Management Plan (SMP) and Code of Construction Practice (CCP) outlining working practice during construction, covering matters of site planning, construction traffic, demolition works and site activities, shall have been submitted to and approved in writing by the Local Planning Authority in respect of that phase or plot. The following matters shall be addressed:
  - a) Hours of working;
  - b) Dust suppression measures;
  - c) Construction routes in and around the site;
  - d) Compound locations;
  - e) Sheeting over of construction vehicles
  - f) Means to prevent mud being deposited on the highway; and
  - g) A scheme of measures to be employed to minimise the noise impact on local residents including measures set out in paragraphs 10.9.1 to 10.9.22 of volume 1 of the Environmental Statement dated 2 February 2011.

Development for each phase, plot or use shall be carried out in accordance with the SMP and CCP unless otherwise agreed in writing by the Local Planning Authority.
48. Construction and demolition activities including site clearance and start up and close down activities shall be restricted to between 0800 hours and 1800 hours on Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays, with no working on Sundays, or public or bank holidays unless otherwise agreed in writing by the local planning authority.
49. The development shall not commence until a written scheme of measures to be employed to minimise the noise impact on local residents arising from construction and demolition and site clearance activities has been submitted to and approved in writing by the Local Planning Authority. The scheme will include measures to be taken in respect of noise from activities identified in paragraphs 10.9.1 to 10.9.22 of volume 1 of the environmental statement, dated 2 February 2011. The measures so approved shall be put in place no later than the commencement of development and maintained throughout the duration of the activities giving rise to the noise impact.

50. Unless otherwise agreed in writing by the Local Planning Authority, prior to the first occupation of any non-residential units within Zone B 'The Hub', details of the opening hours of each non-residential use shall have been submitted to and approved in writing by the Local Planning Authority. The non-residential units shall operate in accordance with the approved opening hours at all times following first occupation unless otherwise agreed in writing by the Local Planning Authority.
51. The uses within Use Class D2 of the Town & County Planning (Use Classes) Order 1987 (as amended, re-enacted or revoked) within Zone B shall be restricted to a gymnasium or similar indoor sport/recreation uses only, and to no other uses within Use Class D2.
52. Prior to the commencement of any phase or plot of development within Zones A, B or C, full details of a scheme for that phase or plot to comply with the requirements of policy EP27 of the Replacement Unitary Development Plan shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed prior to the relevant phase or plot of development being occupied, and shall be so retained, unless otherwise agreed in writing by the Local Planning Authority.
53. Any application for the approval of reserved matters for any phase or plot shall be accompanied by a scheme for lighting external areas for the relevant phase to be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these details and shall be so retained thereafter. The lighting should comply with BS5489, and all communal parking areas should be illuminated throughout the hours of darkness in the interests of crime prevention.
54. The new highway infrastructure shall not become operational until the lighting scheme as agreed by the Local Planning Authority through condition 11 has been fully implemented.
55. Any application for the approval of reserved matters for any phase or plot within the development site shall be accompanied by a 'Crime Prevention Plan' (CPP) which shall examine all aspects of site security, including, car parking, pedestrian footways, entrances, internal layout and external security measures. The CPP shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of development of that phase or plot. Development of that phase or plot shall be carried out in accordance with the approved CCP and any approved site security measures shall be retained thereafter unless otherwise agreed in writing by the Local Planning Authority.
56. The development shall not begin, other than those matters approved in detail (highway infrastructure, new river bridge, new canal bridge, land remediation, local nature reserve, grading and levelling, flood defences, flood storage areas and allotments as set in Condition 4), on any phase or plot within the development site for which outline planning permission has been hereby granted until a scheme to adequately control any light produced by artificial lighting at the proposed development has been submitted to, and approved in writing by the Local Planning Authority. The light to be emitted shall comply with the recommendations of the Institute of Lighting Engineers (ILE) "Guidance notes for the reduction of light pollution" (2005) [now the Institute of Lighting Professionals GN01] so as not to exceed levels recommended for the environment zone E2. The scheme shall include the following information:
  - a) The uses of the buildings or facilities to be illuminated and the proposed hours of operation of the light for each separate use;
  - b) The light source type, location, height, orientation, power and shielding of the luminaires to be installed. The details of the shielding shall address the need to minimise or eliminate



glare and upward sky glow from the lighting installation when viewed from outside the boundary of the development, and to minimise impact on nocturnal wildlife including bats;

c) The proposed level of maintained illuminance to be provided for each use identified in (a) above, measured horizontally at an appropriate level and the maintenance factor

d) Light contour maps showing light spillage from the development at 1 lux, 2 lux, 5 lux and 10 lux levels, as measured at 1.8m and 3,5 m above ground level and before and post curfew (2300 hours). The maps shall be site specific, account for local topography, and extend to any area inside or outside the development where light obstruction from the development would exceed the criteria for environmental zone E2.

e) The predicted maximum vertical illuminance that will be caused by the lighting when measured at windows of any residential properties that fall within the 1 lux, 2 lux, 5 lux and 10 lux level contours

The artificial lighting system shall be installed, maintained and operated in accordance with the scheme so approved. Within 8 weeks of commencement of use of the artificial lighting installation there shall be submitted a written statement of a suitably qualified contractor to verify that the artificial lighting as installed is fully compliant with the ILE guidance.

57. In relation to any phase or plot of development and unless otherwise agreed in writing by the Local Planning Authority, development of that phase or plot shall not begin until details of the boundary treatments within that phase or plot have been submitted to and approved in writing by the Local Planning Authority (where relevant these details shall include measures to maintain the safety and security of the railway line adjacent to the site). The treatments so approved shall then be provided in full prior to the first occupation of that phase of development and shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.
58. Unless otherwise agreed in writing by the Local Planning Authority, development relating to any reserved matters approval shall not begin until a scheme of replacement landscaping for the site, has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development and shall be so retained thereafter, unless any trees or plants within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased. These shall be replaced in the next planting seasons with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.
59. Prior to the commencement of development a Tree Removal Strategy shall have been submitted to and approved in writing by the Local Planning Authority. The Strategy shall identify areas where trees must be removed, where trees will not be removed and where only on-site identification will establish the need for removal. Any works shall then be carried out in accordance with this approved strategy unless otherwise agreed in writing by the Local Planning Authority.
60. Prior to any demolition or the commencement of development on any phase or development plot, a scheme to make provision for archaeological and architectural recording consistent with the proposed development, to be carried out by an appropriately qualified and experienced archaeological/building recording consultant or organisation shall have been submitted to and approved by the Local Planning Authority. The scheme shall include the following matters:

- a) a written scheme of investigation;
- b) a framework for undertaking consultation;
- c) agreed recording standards and reporting; and
- d) a programme of archaeological work.

The agreed programme of archaeological work shall be secured and completed in accordance with the scheme and written scheme for each phase or development plot.

- 61. The site layout, design and building specification of all dwellings to be provided by the development shall be such that the Ambient Noise Level when assessed in accordance with BS8233:1999, shall not exceed
  - a) 30 dB LAeq in living rooms and bedrooms, and
  - b) 45 dB L<sub>Amax</sub> from 2300 hours and 0700 hours in bedrooms, and
  - c) 55 dB LAeq on balconies and in gardens at any time.
- 62. Prior to the occupation of any premises within Use Classes A3 and A4 (Restaurants and Cafes and Pubs) details of the means of suppressing and directing smells from the premises, including details of the height position, design of and materials used in any external chimney or extract vent, shall have been submitted to and approved in writing by the Local Planning Authority. The details so approved shall then be implemented in full before the use first commences and shall be so retained in good working order thereafter unless agreed in writing with the Local Planning Authority.
- 63. Unless otherwise agreed in writing by the Local Planning Authority no unit falling within Class A1 of the Use Classes Order 1987 (as amended, re-enacted or revoked) shall be first brought into use before one or more other units or buildings within the same phase or plot within the development site has been brought into use for a non-retail use.

### **Reasons**

- 1. Required to be imposed by Section 91 (as amended) of the Town and Country Planning Act 1990.
  - 2. Having regard to Section 92 of the Town and Country Planning Act 1990 for those parts of the application submitted for outline permission only, that these matters were reserved by the applicant for subsequent approval and that the time period reflects the separated development programme.
  - 3. For the avoidance of doubt as to what is permitted and to ensure a satisfactory development of the site, compliance with the policies of the Replacement Calderdale Unitary Development Plan and that the development accords with the scheme that was subject to environmental impact assessment.
  - 4. For the avoidance of doubt as to what is permitted and to ensure a satisfactory development of the site, compliance with the policies of the Replacement Calderdale Unitary Development Plan and that the development accords with the scheme that was subject to environmental impact assessment.
  - 5. To ensure the satisfactory development of the site in a phased manner and to ensure compliance with Policy E20 of the Replacement Calderdale Unitary Development Plan.
  - 6. To ensure the satisfactory development of the site in a phased manner, to ensure that nature conservation interests are appropriately accommodated during the development and to ensure compliance with Policies E20, GNE2, NE15, NE16, NE17 and NE18 of the Replacement Calderdale Unitary Development Plan.
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7. To ensure an appropriate development in accordance with policies GP1 and E20 of the Replacement Calderdale Unitary Development Plan and to ensure the development accords with the scheme that was subject to environmental impact assessment.
  8. To ensure an appropriate development in accordance with policies GP1 and E20 of the Replacement Calderdale Unitary Development Plan and to ensure the development accords with the scheme that was subject to environmental impact assessment.
  9. To ensure an appropriate development in accordance with policies GP1 and E20 of the Replacement Calderdale Unitary Development Plan and to ensure the development accords with the scheme that was subject to environmental impact assessment.
  10. To ensure an appropriate development in accordance with policies GP1 and E20 of the Replacement Calderdale Unitary Development Plan and to ensure the development accords with the scheme that was subject to environmental impact assessment.
  11. In the interests of visual amenity and to ensure compliance with Policies BE1 and BE5 of the Replacement Calderdale Unitary Development Plan.
  12. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  13. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  14. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  15. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  16. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  17. In the interests of ensuring that travel patterns associated with the development are sustainable and in order to ensure compliance with Policy T1 (Travel Plans) of the Replacement Calderdale Unitary Development Plan.
  18. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  19. In the interests of highway safety and to ensure compliance with Policy BE5 of the Replacement Calderdale Unitary Development Plan.
  20. In the interests of ensuring that travel patterns associated with the development are sustainable and in order to ensure compliance with Policy T1 (Travel Plans) of the Replacement Calderdale Unitary Development Plan.
  21. To ensure that adequate provision is made for vehicle parking clear of the highway safety and to ensure compliance with Policy T18 of the Replacement Calderdale Unitary Development Plan.
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22. To ensure that adequate provision is made for vehicle parking clear of the highway safety and to ensure compliance with Policy T18 of the Replacement Calderdale Unitary Development Plan.
  23. In the interests of safety and convenience of users of the public footpath/bridleway and to ensure compliance with Policy E1 and BE5 of the Replacement Calderdale Unitary Development Plan.
  24. In the interests of safety and convenience of users of the public footpath/bridleway and to ensure compliance with Policy E1 and BE5 of the Replacement Calderdale Unitary Development Plan.
  25. To provide suitable parking provision for the Lloyds Staff whilst development is ongoing and to ensure compliance with Policy T18 of the Replacement Calderdale Unitary Development Plan.
  26. To provide suitable parking provision for the Lloyds Staff whilst development is ongoing and to ensure compliance with Policy T18 of the Replacement Calderdale Unitary Development Plan.
  27. In the interests of nature conservation, to protect the ecological species and to ensure compliance with Policies NE14, NE15, NE16, NE17 and NE18 of the Replacement Calderdale Unitary Development Plan.
  28. In the interests of nature conservation, to protect the ecological species and to ensure compliance with Policies NE15 and NE16 of the Replacement Calderdale Unitary Development Plan.
  29. To ensure the protection of wildlife and supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site in accordance with Policies NE15 and NE17 of the Replacement Calderdale Unitary Development Plan.
  30. To ensure the protection of wildlife and supporting habitat and to secure opportunities for the enhancement of the nature conservation value of the site in accordance with Policies NE15 and NE17 of the Replacement Calderdale Unitary Development Plan.
  31. In the interests of visual amenity and to ensure compliance with Policy BE3 of the Replacement Calderdale Unitary Development Plan.
  32. In the interests of visual amenity and to ensure compliance with Policy BE3 of the Replacement Calderdale Unitary Development Plan.
  33. In the interests of amenity and to ensure compliance with Policies OS1, OS6 and EP9 of the Replacement Calderdale Unitary Development Plan.
  34. For the avoidance of doubt and to seek to ensure that the site is safe for the development permitted and in the interests of amenity and pollution prevention and to ensure compliance with Policy EP9 of the Replacement Calderdale Unitary Development Plan.
  35. For the avoidance of doubt and to seek to ensure that the site is safe for the development permitted and in the interests of amenity and pollution prevention and to ensure compliance with Policy EP9 of the Replacement Calderdale Unitary Development Plan.
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36. For the avoidance of doubt and to seek to ensure that the site is safe for the development permitted and in the interests of amenity and pollution prevention and to ensure compliance with Policy EP9 of the Replacement Calderdale Unitary Development Plan.
  37. For the avoidance of doubt and to seek to ensure that the site is safe for the development permitted and in the interests of amenity and pollution prevention and to ensure compliance with Policy EP9 of the Replacement Calderdale Unitary Development Plan.
  38. To ensure adequate drainage of the development and that surface water is not discharged to the foul sewer system causing overloading to ensure compliance with Policies EP14 and BE5 of the Replacement Calderdale Unitary Development Plan and compliance with PPS25.
  39. To ensure adequate drainage of the development and that surface water is not discharged to the foul sewer system causing overloading to ensure compliance with Policies EP14 and PPS25.
  40. To ensure proper drainage of the site and to ensure compliance with Policy EP14 of the Replacement Calderdale Unitary Development Plan.
  41. In order to allow sufficient access for maintenance and repair work at all times.
  42. To ensure proper drainage of the site and to ensure compliance with Policy EP14 of the Replacement Calderdale Unitary Development Plan.
  43. To ensure proper drainage of the site and to ensure compliance with Policy EP14 of the Replacement Calderdale Unitary Development Plan.
  44. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupations and to ensure that risk of flooding to others is not increased during construction and to ensure compliance with Policies EP16 and EP20 of the Replacement Calderdale Unitary Development Plan.
  45. To ensure that adequate responsibility for the operation and maintenance of the flood defences and drainage systems is taken over the lifetime of the development and to ensure compliance with Policies EP16 and EP20 of the Replacement Calderdale Unitary Development Plan.
  46. To ensure that each phase fits within the overall strategic aims to minimise flood risk and provide satisfactory drainage and to ensure compliance with Policies EP14, EP16 and EP20 of the Replacement Calderdale Unitary Development Plan.
  47. To safeguard the amenity of neighbouring residents and future occupants of the development in accordance with Policy EP8 of the Calderdale Replacement Unitary Development Plan.
  48. To safeguard the amenity of neighbouring residents and future occupants of the development in accordance with Policy EP8 of the Calderdale Replacement Unitary Development Plan.
  49. In the interests of the aural amenity of the occupiers of the nearby dwellings and to ensure compliance with Policy EP8 of the Replacement Calderdale Unitary Development Plan.
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50. In the interests of the amenities of neighbouring residents and to ensure compliance with Policy EP8 of the Replacement Calderdale Unitary Development Plan.
  51. In order that the suitability of other uses within Use Class D2 can be assessed having regard to the amenity of neighbouring residents and the availability of parking to support the proposed use, having regard to Policies EP8 and T18 of the Replacement Calderdale Unitary Development Plan.
  52. In order to ensure that appropriate provision is made for renewable energy sources to serve the development and to ensure compliance with Policy EP27 of the Replacement Calderdale Unitary Development Plan.
  53. In the interests of crime prevention and in accordance with Policy BE4 of the Calderdale Replacement Unitary Development Plan.
  54. To ensure the safety of all users of the highway and in accordance with Policy BE5 of the Calderdale Replacement Unitary Development Plan.
  55. In the interests of crime prevention and in accordance with Policy BE4 of the Calderdale Replacement Unitary Development Plan.
  56. For the avoidance of doubt and in the interests of the amenities of residential properties and pollution prevention and to ensure compliance with Policy EP5 of the Replacement Calderdale Unitary Development Plan.
  57. In the interests of visual amenity, to prevent trespass onto the railway, and to ensure compliance with Policies BE1 and BE3 of the Replacement Calderdale Unitary Development Plan.
  58. In the interests of visual amenity and to ensure compliance with Policies BE1 and BE3 of the Replacement Calderdale Unitary Development Plan.
  59. To ensure that any trees that are not required for removal are retained and in the interests of visual amenity, and to ensure compliance with Policy BE3 of the Replacement Calderdale Unitary Development Plan.
  60. To ensure the development does not affect a site of potential archaeological interest and to accord with the provisions of Policy BE24 of the Replacement Calderdale Unitary Development Plan.
  61. In the interests of the aural amenity of the occupiers of the dwellings and to ensure compliance with Policy EP8 of the Replacement Calderdale Unitary Development Plan.
  62. To safeguard the amenity of neighbouring residents and future occupants of the development in accordance with Policy EP8 of the Calderdale Replacement Unitary Development Plan.
  63. To ensure that no retail use is brought forward independently and that retail uses remain ancillary to the wider development in accordance with policy E20 of the Replacement Calderdale Unitary Development Plan
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