

Mr Peter Melhuish
Calderdale Metropolitan Borough Council
Planning Services
Northgate House Northgate
Halifax
West Yorkshire
HX1 1UN

Our ref: RA/2011/117992/01-L01
Your ref: 11/00200
Date: 30 March 2011

Dear Mr Melhuish

**HYBRID PLANNING APPLICATION :- DETAILED PLANNING APPLICATION FOR INFRASTRUCTURE WORKS INCLUDING NEW HIGHWAY LINK, NEW BRIDGES, SITE LEVELS, FLOOD ALLEVIATION MEASURES, ALLOTMENTS, OPEN SPACE AND LOCAL NATURE RESERVE. OUTLINE PLANNING APPLICATION (DETAILS OF ACCESS PROVIDED) MIXED USE DEVELOPMENT FOR EMPLOYMENT, RESIDENTIAL, RETAIL, LEISURE AND COMMUNITY USES.
SITE OF FORMER STERNE MILL & SEWAGE WORKS WAKEFIELD ROAD
SOWERBY BRIDGE WEST YORKSHIRE**

Thank you for your consultation on the above mentioned application which was received on the 7th March 2011 and for the extension of time for our reply. Our comments are set out below.

BIODIVERSITY - FISHERIES

Sterne Mills Weir (Copley Weir) at the development site is a major barrier on the river Calder and has been identified as an issue and one that would prevent the return of migratory species, such as the salmon.

The weir was constructed as a means of controlling the flow of the river and for channelling water to be used by the mill. As the weir no longer serves this purpose and the site that once utilised the weir is to be re-developed, it is recommended that any planning permission be subject to a condition that requires the removal of the weir as a barrier to fish and eel migration (e.g. via weir removal or installation of fish and eel pass). This would be to prevent it continuing to act as a barrier to the upstream migration of fish and eels.

We have had regard to the Arup document submitted by the applicant, Sowerby Bridge Copley Valley Regeneration Project – Sterne Mills Weir Fish Passage

Environment Agency
Phoenix House Global Avenue, Leeds, West Yorkshire, LS11 8PG.
Customer services line: 08708 506 506
Email: enquiries@environment-agency.gov.uk
www.environment-agency.gov.uk

Cont/d..

Improvements – January 2011 reference 207615-00/JP. We had wish to discuss the options for fish passage at this site at pre-application stage and would ask for the opportunity to discuss the options and costings set out in the afore-mentioned document prior to any recommendation to approve the application.

If a meeting cannot be arranged to discuss this issue, we recommend the inclusion of the following condition, in the absence of which we would object to the development proposals.

Condition

The development hereby approved shall not be brought into use until a scheme providing for multi-species fish passage and eel passage over Copley Weir has been submitted to and approved in writing by the Local Planning Authority.

The scheme itself shall comprise the following features:

The weir shall be made passable to a range of fish species over a range of flows using a design that has received written approval from the Environment Agency;

Details of timescales for the completion of the works;

The works to provide multi-species fish passage shall proceed in accordance with the design detail and timescales as submitted and agreed.

Reason

The provision of a multi-species fish passage in this location would accord with the aims and objectives of national planning policy as set out in PPS1 and PPS9 and RCUDP policies GNE2 and NE17.

Supporting information:

The weirs on the river interrupt the free migration of fish throughout the river, stopping them from fully exploiting the available habitat and stopping species such as salmon, sea trout and eel from returning.

The Water Framework Directive (WFD) is a new piece of European legislation which takes an approach to managing water called River Basin Management Planning. The main aim of WFD is that all waterbodies will achieve good ecological status or potential and this includes having all appropriate species present.

As such, the Humber Basin Management Plan, submitted to the Secretary of State for approval in December 2009, includes the following statement:

"All rivers within the Humber Basin region will hold naturally self-sustaining spawning populations of migratory fish by 2021"

Calderdale Council's Holmes Road draft Supplementary Planning Document (Regulation 17), dated February 2010, refers to the Waterside Development Supplementary Planning Document (noted as being in draft form at that time). It has been noted that this draft Calderdale Council's Supplementary Planning Document on Waterside Development contains the following statements:

" Weirs can act as significant barriers to the passage of migratory and coarse fish and other wildlife such as otters."

" Where possible opportunities should be taken to remove weirs or to install fish passes."

The West Yorkshire Biodiversity Group, which includes representation by Calderdale Council, has recently been involved in the formation of The Strategic Rivers Project for West Yorkshire (WYSRP) set up primarily as a result of Rivers and Riverine Corridors being identified as priority habitat for West Yorkshire. Its objectives include:

- Restore fish passage and in-stream habitats within the river network to enable the recovery and sustainability of aquatic fauna and flora.

And

- Improve peoples' access to the waterways in a strategic way which maximises the recreational resource and avoids detrimental impacts on wildlife.

Species on the groups action list also include fish, such as the brown trout which is present at this site and now a Biodiversity Action Plan Species, which we understand has been identified as one of the priority species for Calderdale Council.

The River Calder is also allocated as a Wildlife Corridor in the adopted RCUDP (Replacement Calderdale Unitary Development Plan).

Section 14 (2) of The Eels (England and Wales) Regulations 2009 (Statutory Instrument 2009 No. 3344) means the Agency may, by service of a notice, require a responsible person, at their own cost, to construct an eel pass in accordance with plans approved by the Agency.

These regulations came into force on 15th January 2010 and the Environment Agency is presently drafting the notifications, which the view that all high and medium sites must be dealt with by 2015 and remaining sites by 2021.

It is advised that the opportunity to install the eel pass be taken at this time due to the significant nature of the development instead of waiting for the formal notice to be served.

Further information for consideration:

Protection of the old mill goit habitat

The goit also plays an important role in providing a refuge area for fish during flood events, including those fish swept down from further upstream, and also likely to act as a coarse fish spawning area and nursery site.

It is recommended that this habitat be retained.

BIODIVERSITY - OTHER

General

This proposed development is in close proximity to an existing watercourse (the River Calder). PPS9 requires that planning decisions should prevent harm to biodiversity interests and should seek to enhance biodiversity where possible. Article 10 of the Habitats Directive and paragraph 12 of PPS9 stress the importance of natural networks of linked habitat corridors to allow the movement of species between suitable habitats, and promote the expansion of biodiversity. River corridors are particularly effective in this way.

We would wish to see development set back from the watercourse to provide a wildlife buffer zone. The buffer zone, which should be at least 8 metres wide, should be free from all built development. Domestic gardens and formal landscaping should not be incorporated into the buffer zone. Any scheme to provide a buffer zone will need to include a working method statement detailing how the buffer zone will be protected during construction.

Defensive planting

It is noted that the southern bank will be opened up for public use and that limited bankside vegetation is proposed on the northern bankside. This could result in detriment to otter along the riparian corridor. The development proposals should include measures, such as defensive planting, to prevent disturbance to otter. Defensive planting to achieve this can be achieved using hedgerows/planting consisting of thorny native species of UK genetic provenance which should be appropriately retained and managed throughout the lifetime of the development.

Lighting

The riparian corridor along the northern bank must be protected from light spillage by the adoption of a suitable lighting scheme in this area, e.g. via the use of appropriate lighting methods, directional, shaded, or low-pressure sodium lights. There must be no light spillage onto any parts of the river.

Site Management Plan for Nature Conservation

The adoption of a Site Management Plan for Nature Conservation (cited in 6.8.41 of the Environmental Statement) and an Invasive Species Management Plan (cited in 7.12 Table 54 of same doc) are welcomed. However, it is not clear how long these plans are to be implemented for. Successful control of invasive weeds is an ongoing maintenance issue, and we would like to see a maintenance schedule that lasted for at least **ten years**, post construction. The Invasive Plan must include the river bank habitats within the application area.

FLOOD RISK

The proposed development will only be acceptable if the following measures as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission. If these conditions were not to be included our stance would be to object to the proposals.

Condition

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:

1. Flood mitigation measures as detailed in Section 5.2 and as shown on Drawing No ARPLAY-CDP1-350
2. 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.
3. The construction shall be phased and delivered in accordance with the phasing and order as detailed in section 5.4. In particular the flood mitigation works detailed in 5.2 shall be operational prior to any raising of ground levels on the development

site areas.

Reason

1. To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.
2. To reduce the risk of flooding to the proposed development and future occupants.
3. To ensure that risk of flooding to others is not increased during construction.

Condition

Prior to the commencement of development, a scheme for long term maintenance and operation for the flood mitigation measures as detailed in Section 5.2 of the Flood Risk Assessment should be submitted and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved scheme.

Reason

To ensure that responsibility for the operation and maintenance of the defences is taken over the lifetime of the development.

Condition

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 should be submitted and approved by the Local Planning Authority. The phases shall proceed in accordance with the approved scheme.

Reason

To ensure each phase fits within the overall strategic aims to minimise flood risk

Advice Note

The FRA gives details regarding proposed surface water drainage arrangements for the development. The Calderdale MBC Drainage Engineers must be consulted with regard to these drainage proposals.

The FRA mentions that the development areas in Flood Zone 3 will become Flood Zone 2 after development. It should be noted that a flood zone designation can only be changed by alteration to our Flood Map, through the proper procedure. Any challenge to the Agency's flood zones should be formally contested by submitting supporting evidence such as digital copies of a topographic survey or modelling for Quality Assurance purposes.

The River Calder is Main River and therefore the Water Resources Act 1991 and the Yorkshire Land Drainage Byelaws 1980 will both apply. These state that there shall be no development in, over, under or within 8 metres of the bank top, or the landward toe of a flood defence, without the prior written consent of the Environment Agency. If such development is proposed, then an application with full details must be submitted for consent.

There is a possible presence of an ordinary watercourse through the South Bank development area. If a watercourse system exists then the following advice applies:

Under the terms of the Land Drainage Act 1991, the prior written consent of this Environment Agency is required for any proposal to divert, culvert or otherwise obstruct the flow in any watercourse (including the provision of a connection to a culvert).

In order to provide access to a watercourse, no building or other permanent

obstruction, should be placed over, or within 3 metres of, any watercourse.

We would also draw to your attention correspondence that we have received from a local resident in respect of leakage from the canal. The developer is advised to contact British Waterways in respect of the maintenance and repair of the canal and the potential implications for the development of this site.

Sequential/Exception Test

You must also satisfy yourselves that the flood risk Sequential Test has been undertaken in an open and transparent way, in full accordance with PPS25 and its Practice Guide and that it has been passed. Evidence to support the Sequential Test should also be added to the planning file for the public record.

The Exception Test should be applied only after the Sequential Test has been applied. If the Sequential Test demonstrates that there are 'Reasonably Available' lower risk sites to which the development could be steered, the Exception Test should not be applied and the application should be refused.

For a development to pass the Exception Test, all three elements set out in PPS25 Paragraph D9 must be satisfied. The Flood Risk Assessment and our detailed flood risk comments, along with consultation with your Emergency Planners, Drainage Engineers, the Emergency Services, relevant IDB and Water Company where relevant, will help you to establish whether part 'c' of the test has been met. This information should fully inform your consideration of part 'a' of the test by allowing you to weigh up the flood risks against the wider sustainability benefits to the community that the development may bring.

GROUNDWATER AND CONTAMINATED LAND

Informative/ advice to LPA: The Environment Agency considers that the controlled waters at this site are of low environmental sensitivity therefore we will not be providing detailed site-specific advice or comments with regards to land contamination issues for this site.

The developer should address risks to controlled waters from contamination at the site, following the requirements of [PPS23] / [Planning Policy Wales] (delete as appropriate) and the Environment Agency 'Guiding Principles for Land Contamination'.

ENVIRONMENTAL MANAGEMENT

The proposed development site lies within 250 metres of an Active landfill which is regulated by the Environment Agency. Whilst our information suggests that the site does not have a history of dust, noise, odour or vehicle movement complaints, locating new development close to the site will introduce new receptors into a location which has the potential to experience such impacts.

As part of our regulatory role, if problems arise we may impose stricter controls on how the site manages dust, noise, odour and vehicle movements. However, we can only require the site to take reasonable steps to address the problem and it may be, even with the very best controls in place, that there are residual impacts which still cause an amenity or nuisance problem for nearby residents.

It is strongly recommended that you satisfy yourselves that the proposed development will not be subject to unacceptable noise or odour. You may also wish to consider that the imposition of stricter controls on the landfill site may have an

impact on the operator's viability or competitiveness. If you have not done so already, it would also be advisable to consult with the operator.

I would be grateful if you would contact me in respect of our request for a meeting to discuss fish passage. Should you require any further clarification or information in respect of any of the points raised above, please contact me on the details below.

Yours sincerely

Ms Rachel Jones
Planning Liaison Technical Specialist

Direct dial 01132134909

Direct fax 01132134609

Direct e-mail rachele.jones@environment-agency.gov.uk