



Department for  
Communities and  
Local Government

Stephen Sadler  
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Our Ref: APP/W4705/V/14/2228491

22 September 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION BY REDROW HOMES LIMITED AND BELLWAY HOMES LIMITED  
STY LANE AND MICKLETHWAITE LANE, BINGLEY, BRADFORD MBC  
APPLICATION REF: 14/00293/MAO**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, S R G Baird BA (Hons) MRTPI, who held a inquiry for 8 days between 6-16 October 2015 into your client's application to the City of Bradford Metropolitan District Council ('the Council') for the erection of 420 to 440 dwellings, the removal of an existing vehicular swing bridge and its replacement with a vehicular and pedestrian swing bridge over the Leeds Liverpool Canal, the provision of new accesses off Sty Lane and Micklethwaite Lane, a point of access for a pedestrian bridge near the head of Canal Road, emergency and limited access off Oakwood Drive, pedestrian and cycle access to Fairfax Road, off site highway works and the laying out of public open space and landscaping on land at Sty Lane and Micklethwaite Lane, Bingley, West Yorkshire, in accordance with application ref 14/00293/MAO, dated 23 January 2014.
2. On 31 October 2014, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's application be referred to him instead of being dealt with by the local planning authority, City of Bradford Metropolitan District Council. The matters on which the Secretary of State particularly wished to be informed related to consistency with Government policies on promoting sustainable transport and delivering a wide range of choice of high quality homes and consistency with the development plan for the area.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the application be approved and planning permission granted. For the reasons given below, the Secretary of State agrees with the

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Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural matters**

4. The Secretary of State has taken into account the Environmental Statement (ES) dated January 2014 and submitted under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended) (IR1.3). He is satisfied that the ES complies with the requirements of the regulations and that sufficient information has been provided for him to assess the environmental impact of the appeal proposals.

### **Post inquiry correspondence**

5. The Secretary of State is in receipt of post inquiry representations from Philip Davies MP: one on behalf of his constituent Dr J M Findlay, Chairman of Bingley Civic Trust, dated 4 February 2016 and another on behalf of his constituent, Terry Brown, Chairman of Greenhill Action Group, dated 18 March 2016, which were received too late to be considered by the Inspector. The Secretary of State has given careful consideration to these representations but, as they do not raise new matters that would affect his decision, he has not considered it necessary to circulate them to the other parties. Copies of the representations can be made available on written request to the address at the foot of the first page of this letter.
6. The Secretary of State is also in receipt of a letter and attachments dated 10 March 2016 from your firm submitting an updated Section 106 Agreement which is in substantially the same form as that submitted at the Inquiry but which has also been executed on behalf of the Canals and Rivers Trust as the successor to British Waterways. Your firm copied this to the Council and to the Greenhill Action Group, and the Secretary of State is satisfied that it raises no new issues (see paragraph 25 below).

### **Policy Considerations**

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Replacement Unitary Development Plan (RUDP) adopted in October 2005. The Secretary of State considers that the most relevant policies to this application are those described at IR4.1- 4.11.
8. The Secretary of State has also had regard to the emerging Core Strategy (CS) which is at examination stage and to which he therefore attaches limited weight. He agrees with the Inspector that the most relevant policies are those referred to at IR4.14, in particular CS Policy SC4 which highlights that Bingley will be the main local focus for housing and other facilities, with the application site included in the Strategic Housing Land Availability Assessment as providing some 440 dwellings.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 ('the Framework'), the associated planning practice guidance published in March 2014 and the Community Infrastructure Levy (CIL) Regulations 2010 as amended, along with those documents referred to at IR4.15-4.24.

10. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. He has also given special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in accordance with section 72 of the LBCA Act.

### **Main issues**

11. The Secretary of State agrees with the Inspector that the main issues are those listed at IR11.1. The Secretary of State notes the Inspector's comments on the previous application (IR11.2-11.4) and that the Council supports the current hybrid application (IR11.5).

### *Highway Safety & the Free Flow of Traffic*

12. For the reasons given at IR11.6-11.41, the Secretary of State agrees with the Inspector's conclusion at IR11.42 that, when the swing bridge is in operation or when the emergency access is in use, the proposed development would not have an unacceptable effect on the safety and free flow of traffic. He agrees with the Inspector that the proposal to monitor the operation of the bridge and the emergency access procedures are such that the time between the bridge failing and the opening of the emergency access would be materially reduced from that in the original scheme, so that the flow of traffic that would use the route through Micklethwaite village would be low and would not have an unacceptable effect on the highway safety and the free flow of traffic through the village. The Secretary of State also agrees (IR11.41) that the residual impacts of the development at such times as the emergency access had to be brought into use would not exceed the threshold of severity envisaged in paragraph 32 of the Framework.

### *Heritage Assets*

13. The Secretary of State has given very careful consideration to the Inspector's consideration of heritage assets (HAs) at IR11.43-11.64, agreeing with him (IR11.47) that, as any harm to designated and non-designated HAs would fall within the category of less than substantial, the test in paragraph 134 of the Framework is engaged so that the public benefits of the proposal should be weighed against the harm to HAs.

14. Going on to consider the different categories of HAs affected by the appeal proposal, the Secretary of State agrees with the Inspector with regard to the Grade 2 listed Laythorpe Farmhouse (IR11.48) that, despite the appellant's assertion that the impact would be Moderate Adverse, it would have a Major Adverse impact on the significance of the building albeit still falling within the category of less than substantial harm. With regard to the other listed buildings within 500m of the site (IR11.49), the Secretary of State agrees with the Inspector that, as they would all be screened from the development, there would be no material impact on their settings or significance.

15. Turning to the Leeds Liverpool Canal Conservation Area, the Secretary of State agrees with the Inspector's conclusion at IR11.60 that, for the reasons given at IR11.50-11.59, the overall effect on its setting, character and appearance would be Moderate Major, resulting in less than substantial harm to its significance. Similarly, the Secretary of State agrees with the Inspector at IR11.60 that the development would have a Minor Adverse impact on the character and appearance of the Micklethwaite Conservation

Area, falling within the category of less than substantial harm. The Secretary of State also agrees with the Inspector at IR11.63 that there would be less than substantial harm to the other Non-Designated HAs.

16. Overall, therefore, the Secretary of State agrees with the Inspector's conclusion at IR11.64 that the application proposal would result in harm to the significance of HAs ranging from minor to major, but all falling within the category of less than substantial harm to their significance. He further agrees that the scheme would therefore, conflict with the objectives of RUDP Policies BH4A, BH7 and BH10, but also agrees with the parties that these policies are inconsistent with the Framework and out-of-date given that the appropriate test to apply is that set out in Framework paragraph 134. The Secretary of State therefore goes on to weigh the impact of this less than substantial harm in the overall planning balance at paragraph 27 below.

#### *Character and Appearance*

17. The Secretary of State agrees with the Inspector's reasoning and conclusion at IR11.65-11.67. He agrees that the development on this site would appear as a natural extension of the built-up area of Crossflatts/Bingley and that, with careful attention to detail, the development would not appear intrusive or unacceptably affect the landscape character of this part of the Airedale Landscape Character Area. He also agrees that, with careful attention to layout, the Tree Preservation Order trees in the south-eastern corner of the site would not be materially affected. Like the Inspector, he concludes that the proposal would not conflict with the objectives of RUDP Policies UDP 3, NE3 and NE3A.

#### *Deliverability*

18. The Secretary of State agrees with the Inspector's assessment of the deliverability of the scheme at IR11.68-11.73. He agrees that, on the matter of adoption and land ownership (IR11.71), there are no impediments that would prevent vehicular access being achieved off Oakwood Drive. With regard to the pedestrian bridge, the Secretary of State agrees that there is no reason to conclude that it could not be delivered (IR11.72). He also agrees (IR11.73) with the Inspector's findings regarding the impact of the development on Bridge Cottage.

#### *Consistency with Government policies on promoting sustainable transport and delivering a wide choice of high quality homes*

19. For the reasons given at IR11.74-11.93, the Secretary of State agrees with the Inspector's conclusions at IR11.94. While noting that the site is no longer a housing allocation in the development plan (IR11.74), the Secretary of State recognises that this was not the intention of the Council who subsequently resolved that the allocation of the site for housing should be accorded significant weight in the determination of any planning application (IR11.75). The Secretary of State therefore agrees with the Inspector's conclusions on this matter at IR11.77 and IR11.94 and gives the Council's intentions significant weight.
20. The Secretary of State has also carefully considered the Inspector's discussion on the sustainability of the site and promoting sustainable transport at IR11.78-11.90. He agrees with the Inspector's conclusion at IR11.94 that, although the site is greenfield, it is located on the edge of the urban area and in an area regarded by the RUDP and the emerging CS as a highly sustainable location. The Secretary of State agrees that the

site is located within reasonable walking distance of facilities and services and that accessibility can be enhanced by the provision of a pedestrian footbridge at Canal Road and through the provisions of the Travel Plan.

21. Furthermore, the Secretary of State acknowledges that the scheme would provide up to 440 dwellings ranging from 1-bed apartments to 4/5-bed houses, of which 20% would be provided as affordable homes (IR11.90-11.91). He agrees with the Inspector that the development of this site would be important to furthering the Council's objectives of meeting its needs in the district and would be consistent with the objectives of RUDP1 and Sections 4 and 6 of the Framework (IR11.90). However, like the Inspector (IR11.92-11.94), the Secretary of State considers the introduction of the one-way system, while not totally unacceptable, would result in some inconvenience to residents and so is a negative factor to be weighed in the planning balance.

#### *Benefits*

22. The Secretary of State agrees with the Inspector's reasoning and conclusion at IR11.95. As the district does not have a 5-year supply of specific deliverable sites to meet housing requirements - it is at best about 2.05-years - the Secretary of State agrees that the contribution that this development would make to addressing the acute shortage of housing is a benefit that should attract very substantial weight in the planning balance; and that the provision of affordable housing at 20% is also a significant factor.
23. The Secretary of State further agrees with the Inspector (IR11.96-11.98) that the economic benefits that would flow from the application include those arising from employment during the development phase, a New Homes Bonus payment and increased Council Tax revenues. He agrees that these benefits should attract very significant weight in the planning balance. He also agrees with the Inspector's assessment at IR11.99 that some of the obligations provided for by way of the S106 Agreement would have spin-off benefits to the wider community.

#### *Other considerations*

24. The Secretary of State agrees with the Inspector's reasoning and conclusion at IR11.100 that the realignment of a short length of Sty Lane and the alteration to its junction with Micklethwaite Lane would not comprise inappropriate development in the Green Belt. He also agrees with the Inspector (IR11.101-11.107) that the proposed development would not have a significant adverse or unacceptable impact on the ecology of the area and would not conflict with the objectives of RUDP Policies NE 9, NE10 and NE13; and he further agrees (IR11.108-11.109) that the built development could be implemented in such a way that it would not materially harm the amenity value of the canal and so would not conflict with the objectives of RUDP Policy BH20. The Secretary of State also agrees with the Inspector (IR11.110-11.113) that the air quality impacts have been properly evaluated and appropriate mitigation measures have been included within the application. He further agrees with the Inspector's comments and conclusions in respect of Bridge Cottage, drainage and impact on emergency services at IR11.114-11.116.

#### **Conditions and Obligations**

25. The Secretary of State agrees with the Inspector's assessment of the proposed planning conditions at IR11.132-11.134. He is satisfied that the conditions

recommended by the Inspector and set out at Annex B of the IR and Annex A of this letter meet the tests of paragraph 206 of the Framework and comply with the planning practice guidance. The Secretary of State also agrees with the Inspector's assessment of the planning obligations at IR11.135 and, having taken account of the updated version dated 10 March 2016 and referred to at paragraph 6 above, he is satisfied that the requirements of the completed, signed and dated Section 106 agreement accord with paragraph 204 of the Framework and the CIL Regulations 2010 as amended.

### **Planning Balance and conclusion**

26. The Secretary of State agrees with the Inspector's conclusions on the planning balance at IR11.118-11.131. While acknowledging that the proposed site is no longer allocated for housing in the development plan, he considers its previous allocation for that use to be a material consideration to which he attaches significant weight, particularly in the light of the emerging CS which seeks to support, protect and enhance the role of Bingley as a main focus for housing and other facilities. The Secretary of State also gives considerable weight to the fact that, in terms of its economic, social and environmental dimensions and benefits, the proposal can be considered to be sustainable development. In coming to this conclusion, he attaches substantial weight to the acute need for market and affordable housing in the district and to the persistent and chronic failure of the LPA to deliver a 5-year housing land supply. He also gives weight to the acknowledged economic benefits that would flow from the development, particularly the furtherance of the LPA's strategy to ensure the area is a key driver of the Leeds City Region's economy and to promote growth in Bingley.
27. Turning to the impact of the proposed scheme on HAs, the Secretary of State is satisfied that the benefits that would flow from this development materially outweigh the less than substantial harm that would occur. He is also satisfied that, although any additional pressure on the surrounding junctions arising from the normal operation of the swing bridge or during the rare times when the emergency access is in use would conflict with RUDP Policy TM2, this harm would not be sufficient to engage paragraph 32 of the Framework. Furthermore, he is satisfied that the impact of the development on the landscape character of the area, biodiversity, recreational value of the Leeds Liverpool Canal, air quality and the Green Belt would not be in conflict with the objectives of the development plan and the Framework.
28. Overall, therefore, while acknowledging the harm to designated and non-designated HAs and the limited adverse impact the proposal would have on the operation of the highway network, the character and appearance of the area and biodiversity interests, the Secretary of State concludes that the substantial social and economic benefits associated with this scheme significantly and demonstrably outweigh that harm.

### **Formal decision**

29. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants outline planning permission for the erection of 420 to 440 dwellings and full planning permission for the removal of an existing vehicular swing bridge and its replacement with a vehicular and pedestrian swing bridge over the Leeds Liverpool Canal, the provision of new accesses off Sty Lane and Micklethwaite Lane, a point of access for a pedestrian bridge near the head of Canal Road, emergency and limited access off Oakwood Drive, pedestrian and cycle access to Fairfax Road, off site highway works and the laying out of public open space

and landscaping on land at Sty Lane and Micklethwaite Lane, Bingley, West Yorkshire, in accordance with application ref 14/00293/MAO, dated 23 January 2014, subject to the conditions set out at Annex A of this letter.

30. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
31. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Public Sector Equality Duty**

32. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Public Sector Equality Act 2010, which introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In this regard, and in coming to his decision, the Secretary of State considers that there would be some positive impact on protected persons arising from the affordable housing.

### **Right to challenge the decision**

33. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
34. A copy of this letter has been sent to City Of Bradford Metropolitan District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Jean Nowak*

Authorised by the Secretary of State to sign in that behalf

## Conditions

1. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
2. The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.
3. No development shall take place until a phasing scheme for the erection of the dwellings has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
4. Access (other than at Sty Lane and Micklethwaite Lane), appearance, landscaping, layout, and scale comprise the reserved matters. Details of the access (other than at Sty Lane and Micklethwaite Lane) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. Details of appearance, landscaping, layout, and scale for each phase shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved. Any application for the layout of a phase shall demonstrate that a development of a minimum of 420 dwellings and a maximum of 440 dwellings will be achieved across the site.
5. The development hereby permitted shall be carried out in accordance with Drawing Nos: 2418 D 90 001 Site Location Plan; 2418 D 90 002 Existing Site Plan; 7529/006 Rev C Proposed highway improvement at Sty Lane; 8450/001 Lady Lane/Oakwood Drive Proposed Calming works (junction); 7529/ 009 Rev B Lady Lane/Oakwood Drive Proposed Calming works (wider); 7529/010B Speed Limit; 7529/011 Proposed variable message signs: location plans; 7529/012A Micklethwaite Lane/Keighley Road Ind Signal Junction Layout; J4999-101 P4 Proposed Temp Align Phase 1 Temp Through Road and J4999-102 P4 Proposed Road Alignment, Phase 2, Post Diversion
6. The reserved matters shall be prepared in accordance with the illustrative plans listed below, the design and access statement, and the landscape strategy ref Fig 13.11 of Environmental Statement Chapter 13: Parameter Plan 1 Disposition of Built Development; Parameter Plan 2 Scale; Parameter Plan 3 Form and Massing; Parameter Plan 4 Density; Parameter Plan 5 Landmarks; Parameter Plan 6 Hedgerows; Parameter Plan 7 Phasing Plan; Parameter Plan 8 Access; Parameter Plan 10 Micklethwaite Lane Access; Parameter Plan 11 Oakwood Drive Access;
7. Apart from the dwellings served from Oakwood Drive, no phase of the development shall commence until the access from Micklethwaite Lane and Sty Lane, including the provision of the swing bridge and the temporary through road, has been laid out, surfaced and drained in accordance with a specification to be submitted to and approved in writing by the local planning authority.
8. No development shall take place until full details of the highway schemes at Keighley Road/Micklethwaite Lane, Oakwood Drive/Lady Lane, and Sty Lane/Micklethwaite Lane in accordance with approved drawings 7529/012A, 8450/001 and 7529/006C, together with a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. None of the dwellings to be accessed from Oakwood Drive shall be occupied until the highway scheme at Oakwood Drive/Lady Lane has been implemented in accordance with the approved details. None of the dwellings to be accessed from Micklethwaite Lane shall be occupied until the highway schemes at Keighley Road/Micklethwaite Lane, Oakwood Drive/Lady Lane, and Sty Lane/Micklethwaite Lane have been implemented in accordance with the approved details.



9. Apart from the dwellings served from Oakwood Drive, no phase of the development shall commence until full details of the emergency access provisions for the site have been submitted to and approved in writing by the local planning authority. On these phases, none of the dwellings shall be occupied until the emergency access has been laid out in accordance with the approved details.
10. No works relating to the erection of any dwelling and its curtilage, which is located within 20m of the canal edge, shall commence until a plan showing the position of boundary treatments for that phase has been submitted to and approved in writing by the local planning authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no other means of enclosure shall be erected without the prior approval of the local planning authority.
11. No development shall take place until a scheme of tree and hedgerow protection measures has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented before any equipment, machinery and materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
12. No development shall take place until an ecology and landscape management strategy and timetable, which shall include checking surveys for breeding birds, otters and white clawed crayfish, has been submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented in accordance with the timetable.
13. No development shall take place until a scheme and programme of archaeological work has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved programme.
14. No development shall take place until fencing has been erected around the carved rock in the north eastern part of the site in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The fencing shall be retained until all equipment, machinery and surplus materials have been removed from the site. No works shall take place within the fenced area without the prior consent of the local planning authority.
15. No phase of the development shall commence until a scheme and programme for the provision of separate foul and surface water drainage works, including details of any balancing and off-site works, have been submitted to and approved in writing by the local planning authority. The surface water works shall maintain greenfield run-off rates of 5.12 litres/second/ha, which apply up to and including the 1 in 100 year plus climate change rainfall event. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water works, and none of the dwellings in any phase of the development shall be occupied until the drainage scheme has been implemented in respect of that phase.
16. No structure or building shall be located over or within 4m of the centre line of the sewers which cross the site.
17. No development shall take place until a phase 2 site investigation and risk assessment has been undertaken to assess the extent of any contamination on the site, and the resultant report has been submitted to and approved in writing by the local planning authority.
18. No development shall commence until any remediation statement and programme required by condition 17, demonstrating how the site will be made suitable for residential development, and including provision for verification reports, have been submitted to and approved in writing by the

local planning authority. Remediation works shall be carried out in accordance with the approved statement and programme. Any verification report shall be submitted to and approved in writing by the local planning authority prior to the occupation of each phase of the development.

19. If unexpected contamination, not identified in the site investigation report, is encountered, operations on that part of the site shall cease immediately, and the local planning authority shall be informed within no more than five days. Prior to further works being carried out; further remediation works shall be carried out in accordance with a revised statement and programme to be submitted to and approved in writing by the local planning authority. The site or phase shall not be brought into residential use until all the verification reports have been approved in writing by the local planning authority.
20. A methodology for the quality control of any material brought onto the site for use in filling, raising of levels, landscaping and garden formation shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved methodology and a verification report shall be submitted to and approved in writing by the local planning authority.
21. No phase of development which will take place within 10m of the canal shall be commenced until details of any associated proposed repairs and reinstated sections of the canal wall and of any associated excavations and earthworks have been submitted to and approved in writing by the local planning authority. Each phase of development shall be carried out in accordance with the approved details for that phase.
22. No phase of development which includes external lighting within 20m of the canal shall take place until details of such lighting have been submitted to and approved in writing by the local planning authority. The phase of development shall be carried out and maintained thereafter in accordance with the approved details.
23. No development shall take place until arrangements for access, storage, site offices, parking, loading and unloading of all plant, equipment, materials and vehicles, wheel cleaning or comparable measures, temporary roadways, and temporary signage required in connection with the construction of that phase, have been provided in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The approved arrangements shall be retained for the duration of the construction period.
24. Prior to commencement of the development a Construction Environmental Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the local planning authority. The CEMP must be prepared with due regard to the guidance set out in the London Best Practice Guidance on the Control of Dust and Emissions from Construction and Demolition. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority.
25. No construction work shall take place outside the following times: 07:30 to 18:00 hours from Monday to Friday, and 07:30 to 13:00 on Saturdays. There shall be no construction work at any time on Sunday and Bank or Public Holidays. Any sheet piling works to be carried out shall only take place within the following hours: 09:00 to 16:30 from Monday to Friday.
26. No dwelling built with a dedicated parking space shall be occupied until it has been provided with an outdoor, weatherproof electric vehicle charging point readily accessible from the dedicated parking space. Additional communal electric vehicle recharging points shall be provided at a rate of 1 per every 10 communal parking bays. The electrical circuits shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET Code of Practice on Electrical Vehicle Charging Equipment Installation 2012 ISBN978-1-84919-515-7

(PDF). All EV charging points shall be clearly marked as such and their purpose explained to new occupants within their new home welcome park/travel planning advice.

27. No development shall commence until details of and a programme for the construction of a pedestrian swing bridge over the Leeds Liverpool Canal to provide pedestrian access from the site to Canal Road has been submitted to and approved in writing by the lpa authority. Development shall be carried out in accordance with the approved details and programme.

#### Conditions relating to the Full Application Part of the Hybrid Planning Application - Replacement of Existing Swing Bridge

28. The development hereby permitted shall begin not later than 3 years from the date of this decision.
29. The development hereby permitted shall be carried out in accordance with Drawing Nos: 2418 D 90 001 Site Location Plan; 2418 D 90 002 – Existing Site Plan; J4999-100 P2 Existing Swing Bridge and Highway; J4999-101 P4 Proposed Temporary Alignment Phase 1 Temporary Through Road; J4999-102 P4 Proposed Road Alignment Phase 2 Post Diversion of Micklethwaite Lane; J4999-103 P4 Proposed Road Alignment Visibility Sight Lines; J4999-104 P2 Additional Sections; J4999- 107 P4 Proposed Swing Bridge General Arrangement; J4999-108 P3 Sections Through Proposed Bridge Alignment; J4999-109 P2 Details of Proposed Finishes and J4999-110 Micklethwaite Swing Bridge General Arrangement.
30. No works involved in the removal of the existing swing bridge and the construction of the replacement bridge shall commence until a temporary footbridge has been installed and a diversion route is in place in accordance with details to be submitted to and approved in writing by the local planning authority. The temporary footbridge and diversion route shall be retained for the duration of the works involved in the removal and replacement of the swing bridge.
31. No development shall take place until the following details have been submitted to and approved in writing by the local planning authority: full sectional and appearance details for stone block canal coping and abutments to all areas of new piling and the canal edge; full details of all surfacing and facing materials, coursing, pointing and finish, and any fixed steps to all areas of the swing bridge pivot apron and its retaining structures; full details of all soft landscaping including the size, species and spacing of planting and the areas to be grass covered; full details of the extent, appearance, surface treatment and boundary to the turning head on the truncated section of Micklethwaite Lane; full details of the swing bridge balustrade which shall be constructed with a 3-bar horizontal rail pattern; full details of the surface treatment and containment of the generator hardstanding; a scheme of boundary treatment to Micklethwaite Lane, the canal and the swing bridge pivot apron; full details of the swing bridge control cabinet. The swing bridge shall be installed in accordance with the approved details and scheme.
32. Full details of any proposed lighting within 20m of the canal shall be submitted to and approved in writing by the local planning authority within 3 months of commencement of works to provide the vehicular bridge. The development shall be carried out and maintained thereafter in accordance with the approved details.
33. Prior to any construction works relating to the canal, a checking survey for otters shall be undertaken in accordance with a methodology to be first submitted to and approved in writing by the local planning authority. Any mitigation works to the canal approved by the local planning authority and arising out of the survey recommendations shall thereafter be implemented in accordance with the agreed details, and no construction works to the canal shall take place until the survey results and any mitigation scheme has been submitted to and approved in writing by the local planning authority. Works to the canal shall be undertaken in accordance with any approved mitigation scheme.

34. No development relating to the access and bridge works to the western part of the stone chambers at Micklethwaite Bridge shall take place until a scheme and programme of archaeological work in regard to the stone chambers site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved programme. Details of the supporting foundations and the choice of load bearing materials for the proposed bridge and access works adjacent to the retained stone chambers shall be submitted to and approved in writing by the local planning authority in accordance with an agreed methodology. Thereafter the bridge and access foundation works shall be carried out and retained in accordance with the agreed details.
35. No development relating to the construction of the replacement swing bridge shall take place within 10m of the canal until details of the relevant proposed sections of the canal wall which are to be repaired and reinstated and details of any excavations and earthworks have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
36. No development shall take place until arrangements for access, storage, site offices, parking, loading and unloading of all plant, equipment, materials and vehicles, wheel cleaning or comparable measures, temporary roadways, and temporary signage required in connection with the construction of the replacement swing bridge, have been provided in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The approved arrangements shall be retained for the duration of the replacement bridge construction period.
37. No construction work shall take place outside the following times: 07:30 to 18:00 hours from Monday to Friday, and 07:30 to 13:00 on Saturdays. There shall be no construction work at any time on Sundays and Bank or Public Holidays. All sheet piling works shall take place within the following hours: 09:00 to 16:30 Monday to Friday and not on any Bank or Public Holidays.
38. The works hereby authorised shall not be carried out before a contract has been completed and which provides for the installation of a replacement swing bridge in accordance with the details of this planning permission.
39. Prior to commencement of the development a Construction Environmental Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the local planning authority. The CEMP must be prepared with due regard to the guidance set out in the London Best Practice Guidance on the Control of Dust and Emissions from Construction and Demolition. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority.
40. Prior to the commencement of any construction works within 10m of the canal edge, a survey methodology and timetable for the detection of and any appropriate mitigation works in connection with white clawed crayfish, shall be submitted to and approved in writing by the local planning authority. Thereafter any mitigation works shall be implemented in accordance with the agreed details.

# Report to the Secretary of State for Communities and Local Government

by S R G Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 8 January 2016

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TOWN AND COUNTRY PLANNING ACT 1990

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

APPLICATION BY

REDROW HOMES LIMITED AND BELLWAY HOMES LIMITED (YORKSHIRE DIVISION)

Inquiry held on 6 October 2015

Sty Lane and Micklethwaite Lane, Bingley

File Ref: APP/W4705/V/14/2228491

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## GLOSSARY

ABC	Airedale Boat Club
AH	Affordable Housing
CRT	Canals & River Trust
CS	Core Strategy
DAS	Design & Access Statement
DCLG	Department for Communities & Local Government
DfT	Department for Transport
DoS	Degree of Saturation
ES	Environmental Statement
HAs	Heritage Assets
HE	Historic England
GOTA	Guidance on Transport Assessments
IHT	Institute of Highways & Transportation
Lpa	Local Planning Authority
MfS	Manual for Streets
PCUs	Passenger Car Equivalent
RUDP	Replacement Unitary Development Plan
SAC	Special Area of Conservation
SEGI	Site of Ecological/Geological Importance
SHMA	Strategic Housing Market Assessment
SoCG	Statement of Common Ground
SoS	Secretary of State
SPA	Special Protection Area
SPD	Supplementary Planning Document
SSSI	Site of Special Scientific Interest
TRO	Traffic Regulation Order
VMS	Variable Message Sign.

**File Ref: APP/W4705/V/14/2228491**  
**Sty Lane and Micklethwaite Lane, Bingley**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990 on 31 October 2014.
- The application is made by Redrow Homes Limited and Bellway Homes Limited (Yorkshire Division).
- The application Ref 14/00293/MAO is dated 23 January 2014.
- The development proposed is the erection of 420 to 440 dwellings, the removal of an existing vehicular swing bridge and its replacement with a vehicular and pedestrian swing bridge over the Leeds Liverpool Canal, the provision of new accesses off Sty Lane and Micklethwaite Lane, a point of access for a pedestrian bridge near the head of Canal Road, emergency and limited access off Oakwood Drive, pedestrian and cycle access to Fairfax Road, off site highway works and the laying out of public open space and landscaping on land at Sty Lane and Micklethwaite Lane, Bingley West Yorkshire.
- The reason given for making the direction was consistency with his policy on calling in planning applications.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  - the extent to which the proposed development is consistent with Government policies on promoting sustainable transport and delivering a wide choice of high quality homes;
  - the extent to which the proposed development is consistent with the development plan for the area;
  - any other matters the Inspector considers relevant.

**Summary of Recommendation: The application be approved.**

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**1. Preliminary Matters**

- 1.1 The inquiry opened on the 6 October 2015 and sat for 8 days. Accompanied and unaccompanied site visits were carried on Thursday 15 October 2015. At the opening of the inquiry the parties agreed an updated list of application plans (Annex A; CDs 1C & 15).
- 1.2 A Pre-Inquiry Meeting was held on 7 July 2015, where the following were identified as additional relevant matters to be addressed:
- the implications for highway safety and the free flow of traffic on Micklethwaite Lane, Sty Lane and Keithley Road;
  - the effect on Heritage Assets (HA);
  - the effect on the character and appearance of the area;
  - deliverability, with particular reference to the pedestrian footbridge over the canal and the availability of Oakwood Drive for access (CD 2).
- 1.3 Regard has been had to an Environmental Statement (ES) dated January 2014 and submitted under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended). The ES complies with the requirement of the Regulations. The applicants produced a note setting out how the statutory requirements relating to the ES have been met, details of the mitigation and how the mitigation measures would be ensured either



through design, or by imposing planning conditions, the provisions of a S106 Agreement/Undertaking or by other legislation (CD 56).

1.4 Before and during the inquiry, Statements of Common Ground (SoCG) and Agreed Position Statements were submitted. These relate to:

- General Matters (CD 3);
- Highways (CD 3);
- Housing (CD 3);
- Supplementary SoCG on Heritage Assets (Doc 64 (APP SS7));
- Noise and Vibration (Doc 65 APP A);
- Air Quality (Doc 65 APP B);
- Ecology and Nature Conservation (Doc 65 APP C);
- Vehicular Swing Bridge and New Pedestrian Bridge (Doc 44)
- Adoption of Oakwood Drive (Doc 46).

The Greenhill Action Group (GAG) produced commentaries on the General and Highways SoCGs (CDs 3A & 3B)

1.5 The applicants have submitted a S106 Agreement (Doc 48). Further to this Agreement, the applicants and the local planning authority (lpa) produced notes on

- changes to the S106 Agreement (Doc 36);
- an explanatory note on the provisions of the S106 Agreement (Doc 37);
- CIL compliance (Doc 38);
- S106 education contributions (Doc 39).

1.6 The list of documents includes opening and closing submissions and proofs of evidence from the main parties. The proofs of evidence are as originally submitted and do not take account of how that evidence may have been affected by cross-examination or subsequent discussions and agreement between the parties. In reporting the cases for the main parties, I have used the opening and closing submissions as the basis for their cases.

1.7 Following further information provided by the lpa on highway adoptions (Doc 47), GAG did not pursue its concern regarding the availability of Oakwood Drive as a means of access.

## **2. The Site and Surroundings**

- 2.1 The site comprises open land bounded by Micklethwaite Lane to the west, Sty Lane to the north, the Leeds Liverpool Canal to the south-east and residential development to the east served from Oakwood Drive and Fairfax Road (Plan 2). The site also includes short lengths of highway at the junction of Micklethwaite Lane and Sty Lane and where the swing bridge on Micklethwaite Lane crosses the canal together with adjacent land on the south-west of the canal close to the bridge and below the towpath (Plan 2).
- 2.2 The site is located within the Aire Valley on the edge of the built-up area of Crossflatts, which lies on the south-east side of the Leeds Liverpool Canal. The built-up areas of Bingley and Crossflatts in the vicinity of the site are predominantly residential. Bingley town centre is about 0.6km away (Plan 1).
- 2.3 The site covers an area of some 16ha of agricultural grazing rising from the canal to the north and north-east, subdivided by a series of hedgerows and generally degraded walls. Several trees in the south-eastern corner of the site are the subject of a Tree Preservation Order (TPO). There are no public rights of way across the site. A carved rock, from the Bronze Age, is located close to the eastern boundary. Sty Lane and the land to the north is designated as Green Belt and a small area at the north-west corner of site falls within the Green Belt (CD 17).
- 2.4 Micklethwaite Bridge is a single track swing bridge with a 2.85m wide carriageway and no footway (Doc 58 Appendix ANB6 Photo 3 & Doc 51 pages 33 to 36). Although the swing bridge is electrically operated, the road barriers are manually operated requiring the operator to cross and re-cross the bridge to open and close the barriers. Adjacent land contains the remains of 2 limekilns and 4 stone chambers; the westernmost of which is partially bricked up (Doc 76 page 57). To the south, Limefield Mills is a substantial 4-storey group of residential buildings.
- 2.5 At the junction of Keithley Road/Micklethwaite Lane there is a public house and a terrace of 5 retail/commercial units. This terrace includes a barber, a hot food takeaway, a pharmacy, a butchers and a bakery. On the opposite side of Keithley Road a terrace of 3 commercial properties contains a hot food takeaway, a hairdressers and a post office. On Canal Road, close to its junction with Keithley Road, a terrace of 4 commercial properties contains a convenience store, a hairdresser, a butcher and a hot food takeaway. The east bound bus stop on Keithley Road is located just beyond the junction with Canal Road. The west bound bus stop is located almost opposite the terrace of shops close to the junction with Queens Road. Both stops are fitted with Real Time Information Boards. To the south-east with pedestrian access from Keithley Road is Crossflatts Metro station.
- 2.6 To the north of the canal and to the north-west of Micklethwaite Lane there is residential development at Bridge Cottage and Airedale Mills. This group of buildings also includes some commercial uses. Airedale House, a mature detached dwelling, stands on the west side of the Micklethwaite Lane/Sty Lane junction. On the east side of Micklethwaite Lane, and surrounded on 3 sides by the application site are dwellings known as Laythorpe Cottage and

Laythorpe Farmhouse. Laythorpe Farmhouse and attached barn is a Grade II Listed Building. To the south of Laythorpe Farmhouse are a series of earthworks, which may represent the site of a medieval/post-medieval settlement. To the north-east, served by a private road off Sty Lane, is Woodside, a group of 4 detached houses. Beyond in the vicinity of Greenhill Lane are more residential properties, 4 of which are Grade II Listed Buildings and an area of dense woodland.

- 2.7 The southern boundary of the site is formed by the Leeds Liverpool Canal, which has a line of moorings, a clubhouse for Airedale Boat Club (ABC) and the adjacent Hainsworth Boatyard (Doc 58, App ANB6 Photos 4 to 9 & Doc 67 App F). ABC is accessed by a narrow pedestrian swing bridge, owned by the club and located close to the head of Canal Road. Further along the canal to the south-east, are Bingley Five Rise Locks, a substantial Grade I listed structure. The canal is a locally designated Site of Ecological or Geological Importance (SEGI). The towpath is part of the national/local cycle network.
- 2.8 Some 0.5km north of Sty Lane is Micklethwaite village. Much of the village and surrounding open land is included in the Micklethwaite Conservation Area (CA) (Doc 58 APP ANB1). The Leeds Liverpool Canal CA covers the whole length of the canal within Bradford District. Along this stretch of the canal, the CA includes an area of land on the north-west side, including the group of buildings at Airedale Mills and Laythorpe Farm, and that part of the application site between Laythorpe Farm and the canal and that part on the south-east side of the canal and adjacent to Micklethwaite Bridge.
- 2.9 The Keithley Road/Micklethwaite Lane junction is a wide bell-mouth, which also provides vehicular access to the forecourt to the shops. After a short length Micklethwaite Lane narrows as it rises to the swing bridge. Double yellow lines run the full length of Micklethwaite Lane on its eastern side. On the western side, uncontrolled on-street parking is permitted from the access to the forecourt and in front of a row of terraced dwellings, Nos. 1 to 11. Of these 6 properties, 3 have off-street parking. Beyond on the western side up to the junction with The Drive, is a further row of recently constructed terraced houses, Nos. 15 to 27. These houses have off-street parking and on-street parking in front of these properties is controlled for part of the day. Beyond The Drive the approach to the swing bridge narrows again. On the western side is a narrow footway and access to a commercial site that appears to be in used for car sales. The eastern edge of the carriageway is formed by a tall wooden fence and a mature stone wall. Access to the canal towpath is immediately to the south of the bridge.
- 2.10 North of the swing bridge, Micklethwaite Lane is a narrow, 2-lane carriageway with a footway on the western side. The eastern boundary of the carriageway is formed by dry-stone walling. Beyond the junction with Sty Lane, Micklethwaite Lane continues to rise as a narrow 2-lane carriageway without footpaths to Micklethwaite village. The carriageway through Micklethwaite village is narrow, with sharp bends and its width is further reduced by extensive on-street car parking. The road continues to wend steeply to the north, becoming Carr Lane before it joins Otley Road at a T-junction that has restricted visibility in either direction. To the west, Otley

Road drops steeply to the village of East Morton. To the east, Otley Road rises to moorland.

- 2.11 Sty Lane is a narrow 2-lane carriageway without footpaths that rises gently to the east. Beyond the site Sty Lane becomes Greenhill Lane which contains a number of sharp bends and rises at a steep gradient to join Lady Lane. Lady Lane drops to the south-east through residential areas to join Park Road. Park Road drops steeply to its junction with Main Street in Bingley town centre. On the south-eastern boundary of the site, Oakwood Drive and Fairfax Road are cul-de-sacs serving substantial residential areas. These roads terminate at the site boundary. Oakwood Drive rises steeply to join Lady Lane at a priority junction.

### **3. The Proposal**

- 3.1 This is a hybrid planning application comprising 2 elements. The first element is a full planning application for the removal and replacement of the single-track swing bridge over the Leeds Liverpool Canal at Micklethwaite Lane to provide vehicular access to the majority of the residential development proposed to the north-east (Plan 38). The replacement swing bridge would have a 4.8m wide carriageway, allowing 2-way traffic flows and a 1.8m wide footway (Plans 42 to 45). The new bridge would include automated closing and opening barriers (Doc 73 pages 25 to 30). This bridge would be positioned immediately to the south-east of the existing bridge, and would cross the canal at an angle as part of the realigned through-route which runs to the south and east of Laythorpe Farm (Plan 7).
- 3.2 The alignment of Micklethwaite Lane to the south of the bridge would move to the east and closer to the stone arches resulting in the removal of the mature stone wall and its replacement with an embankment whose batter would project into the area in front of the western arch. The western chamber would remain partially filled and partially obstructed by the embankment. The remaining 3 chambers would be retained in-situ.
- 3.3 The second element is an outline planning application for the erection of up to 440 dwellings with all matters other than access reserved. Plan 3 is an indicative master plan showing a layout for 440 dwellings. House types would range from one-bed apartments to 4/5-bed detached houses. Twenty percent of the total number of dwellings would be developed as Affordable Housing (AH). A maximum of 418 dwellings would be accessed off Micklethwaite Lane via the replacement swing bridge and a maximum of 22 dwellings would be accessed off Oakwood Drive.
- 3.4 North of the bridge, Micklethwaite Lane would be realigned to run to the east of Laythorpe Farmhouse before re-joining Micklethwaite Lane and Sty Lane in the north of the site (Plans 9 & 27). From its junction with the new spine road, Sty Lane would become one-way only in a westerly direction for some 70m (Plan 27). The existing length of Micklethwaite Lane south of the Sty Lane junction would become a no-through road serving Laythorpe Farmhouse, Laythorpe Cottage and the dwellings at Airedale Mill with a turning head north of Bridge Cottage and a pedestrian and cycle link back to the development spine road (Plans 7, 8 & 26). In the south-east corner a pedestrian and cycle access would be provided to Fairfax Road. The scheme, through a S106 Agreement, includes provision for the Council to construct a new pedestrian swing bridge over the canal at the site of the existing private pedestrian bridge at the head of Canal Road. In addition it is proposed to improve the existing signal controlled junction at Keithley Road/Micklethwaite Lane and introduce speed reductions on a variety of surrounding roads (Plans 31 & 33).
- 3.5 To serve the 22 dwellings off Oakwood Drive off-site highway works are proposed at the junction of Oakwood Drive and Lady Lane (Plan 29). These works include building out the kerb to increase visibility and the erection of Variable Message Signs (VMS) on each approach to the junction on Lady Lane to assist in reducing vehicle speeds.

- 3.6 Whilst a maximum of 22 dwellings would be served off Oakwood Drive, there would also be an emergency access to the rest of the site. This would allow vehicular access when the Micklethwaite swing bridge could not be used for an extended period of time (Plans 10 & 28). The emergency access would operate in conjunction with the VMS signs advising of the diversion route in operation (Plan 32, Doc 51 APP B pages 119 & 120). The emergency access would prevent unrestricted vehicular access between the 2 parts of the site on a day-to-day basis with the link only opened in an emergency.
- 3.7 The emergency access arrangements include an automated rise and fall bollard control system, electronic links to the swing bridge control mechanism and electronic, visual and audio links to the Council's CCTV Control Room and Urban Traffic Control Centre. A "Bridge Direct" system would be developed enabling residents, businesses and service/emergency service providers to register their e-mail address and/or mobile telephone number for automatic warnings of when the canal bridge was closed and the emergency link was open and to advise when it would be fully operational again. A manual lockable bollard would be included to ensure that the emergency link would be available immediately, even if the automated bollard was blocked or not functioning. The manual bollard would be controlled by a standard specialist key held by all the emergency services in their vehicles and by the Council. This would ensure that the route could be used at all times by the emergency services.
- 3.8 The emergency access would only be triggered if a bridge fault could not be rectified within a specific time period or when planned maintenance was to occur. Should a failure occur in the "Road Closed to Traffic" position there would be immediate electronic notification sent to the CCTV control room where, via a CCTV camera, an interrogation would take place of the suspected fault. This could be pursued with the bridge operator with visual and verbal communications. The CCTV control room is secure and manned 24 hours a day, 365 days a year and controls similar bollards around Bradford.
- 3.9 It is anticipated that faults with the bridge could be rectified automatically and remotely. However, if the fault cannot be rectified within 3 minutes then the emergency link would be opened remotely with the VMS signage being simultaneously initiated and the bollard being lowered to allow vehicle movements to take place via Oakwood Drive and Lady Lane. The status of the bridge would be monitored continually and reopened to vehicular use when the fault is rectified. When the bridge became available for vehicle use, the remote signs would be switched off and the bollard would be raised.
- 3.10 If a fault with the bridge is detected in the "Road Open to Traffic" position that cannot be resolved remotely the emergency access would not be initiated unless and until such time as the bridge may need to be opened to be repaired. Repairs would be programmed to take place outside of peak traffic hours. It would be possible to initiate a "planned" use of the emergency access whereby advance warning would be given to drivers.
- 3.11 The CCTV operators would have the ability to visually check for any vehicle at the emergency access location and talk to the drivers. Drivers arriving at the

emergency link would be able to speak to the CCTV operator and this facility would be activated when a vehicle is stood on either approach to the bollard and detected by induction loops.

- 3.12 The Travel Plan to be agreed with the lpa would include details of how the system would operate and details would be provided to prospective purchasers and those in adjoining areas who use Micklethwaite Lane and the bridge. VMSs on the strategic approaches to the Micklethwaite Lane Bridge would provide advance warning to motorists at times when the bridge is out of action and the diversion route is open.
- 3.13 Within the site and on approaches close to the bridge, manoeuvring space would be provided to enable drivers already at the bridge to turn and use the diversion route/emergency access route if a fault occurs. This route would be shown on signs at the bridge and at the emergency access point explaining the route (Doc 51 page 119). Smaller signs could be attached on lamp columns so non-local drivers could follow the route.
- 3.14 Northbound drivers on Micklethwaite Lane would be able to use The Drive to gain access back onto the wider network or old Souls Way to Canal Street. Southbound drivers within the development would be able to utilise the internal road network and a dedicated turning head close to the bridge (Doc 51 page 120). The works to the junction of Oakwood Drive and Lady Lane would be able to accommodate the additional traffic on the occasions when the emergency access was open.
- 3.15 The Design and Access Statement (DAS) envisages 4 main residential character areas. The Laythorpe Green Character Area would be centred on Laythorpe Farm and would draw its character from the agricultural landscape and reflect the traditional architecture and materials of the area. The key element of this area would be a Green between Laythorpe Farm and the canal. The Canalside Character Area would be the longest public edge to the site and would be distinctly urban in its form and character by developing a substantially continuous built frontage. The Greenhill Character Area would occupy an area of higher and more steeply sloping land in the north-east corner of the site. Reflecting the topography and surroundings, this area would draw on the local vernacular, reinterpreting or echoing the traditional materials, design and detailing of Pennine villages. This area would include another Green in the north-eastern part of the site near Oakwood Drive and abutting Greenhill Wood. The Oakwood Character Area would occupy the southern part of the site adjacent to the existing estate style housing and the new development would reflect a similar pattern. The Greens would be linked by linear open spaces following the lines of existing hedgerows and the canal.

#### **4. Planning Policy and Other Relevant Guidance**

##### Development Plan

- 4.1 The development plan comprises saved policies of the Replacement Unitary Development Plan (RUDP) adopted in October 2005 (CD 17). Policy UDP1 promotes sustainable patterns of development by focussing development on urban areas with good public transport links close to essential and wider facilities and services. Policy UDP3 seeks to maintain and where practical improve the quality of the built and natural environment. Development should promote sustainable design and good urban design, maintain or enhance environmental resources and biodiversity and maintain or enhance the character or quality of the environment. The Shipley Constituency Report identifies the urban areas of Shipley/Baildon and Bingley as one of the most sustainable locations in this part of the District.
- 4.2 Development will be permitted where it contributes to the social, economic and environmental aspects of sustainable development and makes efficient use of existing physical and social infrastructure (Policy UR2). Policy UR3 permits development where it would not have an adverse impact on the surrounding environment or the occupants of adjoining land. Policy H9 seeks a proportion of AH to be provided on housing sites over 1ha. The supporting text gives quotas of affordable housing for different market areas, derived from the Joint Housing Study. For Airedale a proportion of 30% is specified.
- 4.3 Policy TM2 seeks to ensure that new development does not adversely affect existing and proposed transport infrastructure and that necessary improvements are put in place to overcome any adverse impacts. Policies TM6 and TM8 encourage greater use of public transport and require new pedestrian and cycle links to be incorporated in developments. Policy TM19A says that the potential impact on traffic management and highway safety will be taken into account when considering proposals and where necessary any consequential improvements will be sought.
- 4.4 Policy D1 sets out general design considerations. All development proposals should make a positive contribution to the environment and quality of life through high quality design, layout and landscaping. Amongst other things development should: be well related to the existing character of the locality in terms of design, scale, massing, height and materials; provide a quality setting for the development; retain and where appropriate enhance important ecological and landscape features; relate to existing natural and built features, landmarks or views that contribute to the area; not harm the amenity of prospective or existing users and residents and provide good contemporary design sympathetic or complementary to its setting.
- 4.5 Policy D4 aims to reduce the opportunities for crime to occur through appropriate design. Policy D5 seeks to ensure that development proposals are designed so that important existing and new landscape features are incorporated as an integral part of the scheme. This should be achieved by conserving and integrating existing natural features; the use of new landscape features such as planting, shelter belts, green wedges and green corridors; integrating new and existing development at the boundaries; and creating areas of habitat value through additional planting.



- 4.6 Development that would harm the setting of a LB will not be permitted (Policy BH4A). Proposals should preserve or enhance the setting of a CA (Policy BH7). The development of important open areas of land within or adjacent to a CA will not be permitted if the land makes a significant contribution to its character; provides an attractive setting for buildings within it; is important to the historical form and layout of the settlement; affords the opportunity for vistas which are historically important or visually significant; and contains natural water features trees and hedgerows which the development proposes to destroy (Policy BH10).
- 4.7 Policy BH12 states that changes to the public realm within the CA must demonstrate that the design, materials and layout of traffic management and parking areas minimise the adverse visual impact which may arise from such development; new and replacement street furniture is of an appropriate design and materials that preserve or enhance the character of the surrounding street scene. Policy BH19 requires developers to provide an independent archaeological evaluation where proposals may adversely affect archaeological areas.
- 4.8 Proposals along the Leeds Liverpool Canal are covered by Policy BH20. Development proposals alongside or highly visible from the canal should maintain or where practical make a positive contribution to its recreational, tourism and environmental value. This may be achieved by improving access to the canal towpath; retaining features of historical importance to the canal; incorporating appropriate hard and soft landscaping; and ensuring that the use of design, material and detailing takes full account of their context.
- 4.9 Where new housing proposals would result in an increased demand for educational facilities which cannot be met by existing facilities a planning obligation should secure the provision for which there is a need (Policy CF2). Open Space Policy OS5 seeks to secure appropriate provision or equivalent commuted payment for recreation open space and playing fields.
- 4.10 Policies NE3 and NE3A set out the approach to the protection of Landscape Character Areas. Development will be permitted where it would not adversely affect the particular character of the landscape. Policies NE4 and NE5 seek to preserve and enhance the contribution that trees and areas of woodland coverage make to the landscape character of the district.
- 4.11 SEGIs are protected by Policy NE9. Development will not be permitted unless it is shown that the need for the proposal outweighs the need to safeguard the nature conservation value of the site. Where development is permitted that would damage the nature conservation value of a site, such damage will be kept to a minimum. Policy NE10 ensures that development proposals protect important landscape, ecological, geological features, or wildlife habitat that accommodates protected species. Policy NE13 ensures that wildlife corridors are protected and that development on land affecting or adjacent to a wildlife corridor should make provisions for the retention of the corridor.
- Policy NR16 seeks to ensure that development which adds to the risk of flooding as a result of surface water run-off will not be permitted unless effective control measures are provided. Development adjoining or near to watercourses will not be permitted if it would have an adverse effect on

nature conservation, water quality, fisheries, landscape, public access or water based or water side recreation (Policy NR17A). Policy GB1 identifies the general presumption against inappropriate development in the Green Belt and development, which preserves the openness of the Green Belt and does not conflict with the purposes of including land within it, will be allowed. Policy P1 indicates that development will not be permitted where it is unacceptable effect on air quality.

#### Emerging Core Strategy

- 4.12 The examination of the CS has been concluded and the Inspector's report has yet to be published. Major modifications are currently being progressed by the lpa and adoption is anticipated in Spring 2016.
- 4.13 The emerging CS sets out the spatial vision and objectives to 2030. By 2030 the District will have become a key driver of the Leeds City Region's economy and an area where people want to live, do business, shop and spend their leisure time. The vision for Airedale is to promote growth in Bingley
- 4.14 Of the various policies identified the following are the most relevant. CS Policy SC1 seeks to support, protect and enhance the roles of the Principal Towns, which includes Bingley, as hubs for the local economy, housing and community infrastructure. CS Policy SC4 highlights that Bingley will be the main local focus for housing and other facilities. Bingley is identified as a location for some 1,400 new dwellings and the application site is included in the SHLAA<sup>1</sup> as providing some 440 dwellings.

#### Other Local Guidance

Landscape Character Supplementary Planning Document (SPD) Volume 1: Airedale (CD 32)

- 4.15 The SPD supplements RUDP Policies NE3 and NE3A. Objectives are to protect and enhance the character and appearance of features important to the landscape. Airedale, a distinctive U-shaped valley with dramatic contrasts between the exposed upland pastures and the dense settlements on the valley floor is described as the largest and most complex character area in the district. The sensitivity of this area is described as moderate.
- 4.16 Airedale is sub-divided into 8 landscape character types with Mickleton village and the open land north of Sty Lane located in an area described as Enclosed and Upland Pasture with Enclosed Pasture the predominant landscape character type (CD 32 Section 10). Enclosed Pasture is considered important both for recreation and as a green backdrop above Bingley and Crossflatts. The land south of Sty Lane is located within an area identified as Settlement (CD3 2 Section 5).

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<sup>1</sup> Strategic Housing Land Availability Assessment.

The Leeds Liverpool Canal Conservation Area Assessment March 2006 (CD34)

- 4.17 The CA extends for the entire length, 25km, of the canal corridor where it runs through the District. The southern and western boundaries of the site adjoin the CA in the Airedale Mills and Micklethwaite Bridge section (Doc 58 Appendix ABN1 & CD 34). Key features in this area are Airedale House a substantial late 19<sup>th</sup> century villa opposite the junction of Micklethwaite Lane and Sty Lane; Airedale Mills comprising a group of separate buildings to the north-west of the swing bridge; Bridge Cottage immediately adjoins the canal and the swing bridge; Laythorpe Farmhouse; Limefield Mills and All Souls Mill a group of former industrial and warehouse buildings to the south of the canal; Hainsworth Boat Yard and ABC.

Micklethwaite Village Conservation Area (CD 36)

- 4.18 This CA sits alongside the Canal CA and covers the historic core of the village and several fields around its edge (Doc 58 Appendix ABN1).

National Planning Policy

- 4.19 Paragraph 14 of The National Planning Policy Framework (Framework) sets out a presumption in favour of sustainable development. This means approving developments that accord with the Development Plan without delay and where the Development Plan is absent, silent or relevant policies are out-of-date, to grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or when specific policies indicate that development should be restricted.
- 4.20 In promoting sustainable transport, planning decisions should take account of the opportunity for sustainable transport modes to reduce the need for major transport infrastructure; ensure that safe and suitable access to the site for all can be achieved improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be refused on transport grounds where the residual cumulative impacts of the development are severe (paragraph 32).
- 4.21 Paragraph 47 seeks to significantly boost the supply of housing land to meet identified requirements. Paragraph 49 says that where a lpa is unable to show a 5-year supply of deliverable housing land, relevant development plan policies for the supply of housing should be considered out-of-date.
- 4.22 Sections 7, 9 and 11 highlight: the need for high quality design; protecting the Green Belt and conserving and enhancing the natural environment. Where development would lead to substantial harm to the significance of a designated HA permission should be refused unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm. Where there is less than substantial harm, that harm should be weighed against the public benefits of the proposal. The impact of proposals on non-designated HAs should also be taken into account and a balanced judgement is required having regard to the scale of any harm and the significance of the non-designated asset.

- 4.23 Planning Practice Guidance (PPG) sets out relevant and up-to-date guidance on, amongst other things, design, the natural environment, the use of transport assessments and travel plans in decision-taking and the use of conditions.
- 4.24 I also have had regard to guidance produced by the Institute of Highways and Transportation (IHT) and contained in Manual for Streets (MfS).

## 5. The Case for Redrow Homes Limited and Bellway Homes Limited (Yorkshire Division)

The material points are: -

Introduction

- 5.1 The decision maker has the straightforward task of weighing the planning balance within the statutory framework of S38 (6). That determination must be made in the context of there having been careful consideration of the merits of a similar proposal by an Inspector in 2012 whose conclusions were adopted broadly without demur by the SoS.
- 5.2 In 2012 the lpa opposed the scheme on highway grounds when the replacement swing bridge was out of action. Whilst the SoS and Inspector accepted part of that case, i.e. the period before the emergency access was open, the SoS rejected the remainder of that case. The lpa has reconsidered its position both in the light of the SoS's conclusions and the substantial amount of work undertaken to resolve the concerns of the SoS as to the effect on the highway during the time between the closure of the bridge and the opening of the emergency access.
- 5.3 That change of position is significant. Firstly, the lpa, charged with its statutory duty, has taken an objective and dispassionate view that the planning balance now favours the grant of permission. Secondly, in the ordinary course of events the lpa's decision would have resulted in the grant of permission. Thirdly, the request to call in the application seems to have been made by the local MP on the grounds that the concerns of the SoS had not been resolved, whereas almost no time at the inquiry has been spent disputing the applicants' evidence on that issue.
- 5.4 GAG has only one page, of a 74-page proof, on the residual issue upon which the last appeal had been dismissed and conceded that it was not inviting dismissal on the basis that the concerns of the SoS had not been addressed. Instead GAG has re-run points that were rejected the last time, as well as raising new points that could and should have been put to the last inquiry.
- 5.5 The main issues in 2012 were:
- (i) whether the housing proposal was a sustainable form of development;
  - (ii) the effect on highway safety and the movement of road users, particularly on Micklethwaite Lane and at the Oakwood Drive/Lady Lane junction;
  - (iii) the effect on the character and appearance of the area, including HAs and the landscape;
  - (iv) the effect on the recreational value of the Leeds Liverpool Canal;
  - (v) whether the housing proposal would be consistent with policies in the Development Plan (CD 8 paragraph 156 & CD 10 paragraph 14).
- 5.6 GAG seeks to place emphasis upon the titles used by the 2102 Inspector in the conclusions section of his report, in particular the title "*Character and*

*appearance of the area*" which does not include "heritage" within it. However, only on a partial and unfair reading of the 2012 Inspector's report could that title be read as somehow underplaying the importance of heritage in the planning balance. Moreover, the fact that some of the 2013 Inspector's headings warrant little or no comment is simply because the scope of the issues upon which this application should be determined has diminished since 2012. Although issues of 5-year housing land supply and furtherance of emerging CS strategy are referred to by the applicants in a section on "Other Material Considerations" their importance to the outcome of the application cannot be understated.

#### Consistency in Decision Making

- 5.7 The starting point for this decision paradoxically should not be the application of the development plan, but a consideration of the 2012 Inspector's report and the SoS's decision. That is because:
- (i) the application is substantially similar to that considered previously;
  - (ii) there has been little change in the overall policy context;
  - (iii) the same principal parties participated in the inquiry;
  - (iv) the limited basis upon which the 2012 appeals were dismissed.
- 5.8 Whilst, this inquiry is not precluded from considering issues upon which there has already been a determination<sup>2</sup>, there are strong public policy grounds to ensure that: (a) like cases are determined in a like manner; (b) where issues are similar as between 2 cases, there must be good reason for SoS to form a different judgment and (c) such a good reason is only likely to arise where there are materially different considerations to assess.
- 5.9 It is a well-established principle of administrative law that decision-makers should act consistently. The House of Lords states<sup>3</sup>: "*it is generally desirable that decision makers, whether administrative or judicial, should act in a broadly consistent manner*", and that "*like cases should be treated alike*"<sup>4</sup>. In planning decisions that principle has been applied such that a previous decision that is sufficiently similar, should be taken into account as a material consideration in decision-making<sup>5</sup> (Doc 42 paragraphs 2.4 & 2.5). Where GAG's case is a direct disagreement with the conclusions of the 2012 Inspector and/or the SoS based upon a difference of professional judgment e.g. on accessibility and the weighting of HAs, then this inquiry should be slow to arrive at a different decision simply on the basis of a difference of professional judgment.

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<sup>2</sup> A principle which has application in planning inquiries in general terms: see *Thrasylvoulou v SOS* [1990] 2 AC 273.

<sup>3</sup> *R (O'Brien) v Independent Assessor* [2007] 2 AC 312.

<sup>4</sup> *N v Secretary of State for the Home Department* [2005] 2 AC 296 and *R (G) v Barnet London Borough Council* [2004] 2 AC 208).

<sup>5</sup> *North Wiltshire District Council v The Secretary of State for the Environment* (1993) 65 P & CR 137.

## Sustainability

### Site Location

- 5.10 Albeit at variance with its case put at the 2012 inquiry, GAG accepts<sup>6</sup> that weight should be afforded to the identification of the application site as an RUDP housing allocation. Whilst the level of information before the RUDP Inspector differed from that before this inquiry that should not be thought to minimise the seriousness of the exercise undertaken at that stage. The RUDP Inspector was charged with assessing whether in principle the site was an acceptable one to be allocated and to undertake a comparative exercise to judge whether there might be better sites to meet the needs of the district.
- 5.11 On the latter, the RUDP Inspector's conclusions remain unassailed. GAG does not seek to demonstrate<sup>7</sup> that Bradford's housing needs could be better met by any other site. That is not because no-one has given thought to this issue; rather this is an issue that was specifically considered at the 2012 inquiry. The issue was decisively determined against GAG's case on that occasion (CD 8 paragraph 165). At this inquiry whilst GAG and the lpa have not led any evidence on the issue, the applicants have (Doc 60 & 61). That evidence demonstrates the fundamental importance of this site in delivering the lpa's strategy in both its emerging and adopted development plans. Furthermore, the applicants' heritage evidence demonstrates that the developed area of this part of the Aire Valley is pepper-potted by HAs and that the site is not in a noticeably more sensitive location than any other possible candidate site (Docs 57 & 58).
- 5.12 Sustainability and accessibility are relative concepts and as such it is important to note that it is no part of anyone's case that there is a more sustainable site which could reasonably meet the urgent need for AH in the District generally and the Bingley area in particular. That leaves the question as to whether the site is accessible enough to be thought to be sufficiently sustainable to justify its acceptability for the development proposed. It is important to note that:
- (i) the lpa has consistently considered that this site is sufficiently well located in relation to services and facilities to be an accessible site for housing development;
  - (ii) that conclusion was endorsed by the RUDP Inspector;
  - (iii) that conclusion was endorsed by the SoS (CD 10 paragraph 16);
  - (iv) GAG specifically endorses<sup>8</sup> that the site is in principle a "good site", and one that could be developed for residential development.
- 5.13 In 2013, the SoS observed: "*...the proposed site is well located in relation to built-up areas; that there is a reasonable level of accessibility by non-car modes of transport; and, that the proposal represents a sustainable form of*

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<sup>6</sup> X-Examination of Mr Nicholls.

<sup>7</sup> X-Examination of Mr Nicholls.

<sup>8</sup> X-Examination of Mr Nicholls.

*development*" (CD 10 paragraph 16). GAG suggests that the RUDP Inspector relied on a pedestrian footbridge and a new bus service to support the allocation of the site. That is not how the applicants read the RUDP Inspector's conclusions. The RUDP Inspector's reference to the bridge was to the vehicular/pedestrian footbridge at Micklethwaite Lane, rather than a footbridge at Canal Road (CD 16).

#### Accessibility by non-car modes

- 5.14 The 2012 Inspector concluded that *"...cycling is a realistic option for future residents of the appeal site."*, a conclusion GAG agrees with (CD 8 paragraph 163). The 2012 Inspector identified the principal facilities to which residents might wish to walk to, noting that all were within the 2km desirable maxima where there is the greatest potential to secure a modal shift to non-car modes (CD 8 paragraph 163). Moreover, all of the facilities he identified are also within 1.6km (one mile), where most journeys are undertaken on foot.
- 5.15 The 2 areas of dispute relating to accessibility are: (i) whether there is a need for the new pedestrian bridge to be in place in order to render the site accessible and (ii) the accessibility of the site for those who wish to use public transport. Given the nature of the S106 Agreement, the 2 issues may be considered to have a degree of interaction as the Agreement provides £500,000 to be used either to fund the a new pedestrian bridge or to subsidise the diversion of an existing bus service into the site. The former would improve pedestrian connectivity, and the latter would substantially improve public transport accessibility. Nonetheless, the applicants' primary case is that neither is strictly necessary other than to address the first sentence of the third bullet point of Framework paragraph 32.
- 5.16 The applicants' case is that the 2012 Inspector has correctly assessed accessibility to facilities on foot, and for the most part most destinations do not depend upon the new pedestrian bridge to secure convenient access which would either be via Fairfax Drive or Micklethwaite Lane (CD 8 paragraph 162). Nonetheless, if the SoS concludes that the sustainability profile of the application site is such that there is a need for the pedestrian bridge, which appears to have been the conclusions of the 2012 Inspector, then that is secured by the S106 Agreement. On that basis there is literally no reason propounded by anyone to deviate from the conclusions of the 2012 Inspector that the site: *"...generally performs well in terms of accessibility by walking to local destinations in Crossflatts."* (CD 8 paragraph 162).
- 5.17 GAG spent a considerable amount of time considering the length of a walk to the bus stops, assuming that no on-site improvement is secured from the £500,000. GAG's conclusion is that the site is poorly served by public transport. However, GAG acknowledged that those points were similar to those rejected by the 2012 Inspector (CD 8 Paragraph 164). Neither the distances to the bus stops have changed nor had the distances within the site. Then, the Inspector concluded: *"Overall, I consider that there would be a reasonable level of accessibility for the site by public transport"*. That conclusion was based in part upon the location of bus stops and the train station as well as the provision of travel cards to new residents which would



help to establish sustainable travel patterns by new residents before they became accustomed to using their private cars for commuting.

5.18 The site is sufficiently well served by opportunities to access facilities and services by non-car means to warrant the tag “sustainable”, and, as noted by the 2013 Inspector, together with the proposals in the Travel Plan this scheme accords with Framework paragraph 34 (CD 8 paragraph 166).

5.19 The structure of the S106 Agreement is such that if the pedestrian bridge was not provided £500,000 would be paid to the Council who then would take charge of arranging the process and the tender for a new bus route or extension to the route into the site. It is inconceivable that the lpa would not have a view as to what the £500,000 could deliver. Whilst the inquiry has had no letter from a bus operator, there is an email from a bus operator (Doc 7). As to the conclusions of the RUDP Inspector, his conclusion regarding a bus service was based on a development of 700 to 800 units. In short there is no reason to reduce the weight given to WYCA<sup>9</sup> letter (Doc 27).

#### Other potential sites

5.20 It is not part of anyone’s case to argue, other than in the most non-specific way, that there are other better sites which could help to meet Bradford’s acute deficit in housing. At the 2012 Inquiry, the issue was specifically considered in the context of sustainability based upon very similar evidence to that presented at this inquiry. The 2012 Inspector concluded that the site was one of the better sites within the Bingley/ShIPLEY market sub-area in terms of its accessibility (CD 8 paragraph 165). No party has sought to challenge that conclusion before this inquiry.

5.21 However to the above point can be added just how important this scheme is to meeting the chronic and acute need for more housing. This site comprises 49% of the deliverable housing outside of the Green Belt in the market sub-area within the principal town of Bingley (Doc 60 paragraph 8.7). GAG accepts<sup>10</sup> that this site is important to furthering the lpa’s objectives of meeting its housing needs. The site is demonstrably a good one in sustainability terms based upon the circumstances in Bradford.

#### Highway Safety and the Movement of Road Users

##### Overview

5.22 This is an amended application tailored to address the SoS’s sole concern when dismissing the appeal in 2013 namely: the operation of the road network between any period when the replacement swing bridge failed in the road closed to traffic position and until the emergency access was in operation. The application incorporates a sophisticated, immediate emergency response when the bridge is out of action involving an automatic bollard system, with CCTV and audio links to Bradford CCTV control room which is manned continuously. The evidence clearly demonstrates that the likelihood of an operational failure of the bridge road closed to traffic position

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<sup>9</sup> West Yorkshire Combined Authority.

<sup>10</sup> X-Examination of Mr Nicholls.

is very low and that, utilising the SCADA<sup>11</sup> control system, the response time for the opening of emergency access would be rapid (Doc 73). The concerns of the 2012 Inspector and the SoS are decisively addressed (CD 8 paragraphs 247-251 & CD 10 paragraphs 36-40).

- 5.23 What now has happened is that GAG has revisited some issues that were debated in 2012 e.g. trip rates and Sty Lane one-way working, and others that are entirely new e.g. Main Street/Park Road junction capacity. GAG addresses the reason for dismissing the previous appeal in a page of evidence and appears to accept that it does not invite dismissal on that basis<sup>12</sup>. That is a fundamental concession on behalf of GAG, i.e. that the residual issue no longer remains a reason for refusing the planning application.
- 5.24 Once GAG's body of work is scrutinised several significant problems become evident. In summary these are:
- (i) unrealistic assumptions have been fed into the model
- the traffic from all 440 units has been assumed to pass through the Keighley Road/Micklethwaite Lane junction despite the fact that 22 units would not be able to access that route by vehicle;
  - only 2.8% of the remaining 418 units traffic is assumed to travel through Micklethwaite village despite the fact that the SoS considered that the split should be 5% - whilst GAG accepts that the difference is modest – it adds to the over-stating of impact;
  - base flows have been increased to include the highest movements in any of the several surveys that have taken place – i.e. the base flows for the junction do not derive from any one survey or even an averaging but are the worst ever surveyed. GAG's highway engineer said that he had made the same assumptions when working elsewhere. That proved to be factually inaccurate when checked. In that instance he had looked at several surveys and has chosen to use the totality of the survey data for the occasion when the overall flows were highest even if the individual turning movements were not the highest recorded. This approach is unsupported by any guidance and deviates materially from good practice;
  - GAG redistributes the eastbound flow from Sty Lane onto the remainder of the network but then attributes all of those flows through the Keighley Road/Micklethwaite Lane junction and thence to the Main Street/Park Road junction. This is despite the fact that for a high proportion of those drivers it would be illogical to travel through the centre of Bingley at rush hour rather than using less congested routes e.g. through East Morton.
  - For the Main Street/Park Road junction, GAG's model assumes lane lengths which bear no relation to the available physical lanes on the ground and have not been validated. Whilst that is a criticism which could be similarly levied at the applicants' original work, the work on which they now rely has been validated to the real world, whereas all of GAG's

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<sup>11</sup> Supervisory Control and Data Acquisition.

<sup>12</sup> X-Examination of Mr Lowe.

conclusions on the operation of the Main Street/Park Road junction are based upon a wholly erroneous physical model;

- GAG throughout uses the 85<sup>th</sup> percentile trip generation, in the teeth of the SoS's conclusions and contrary to guidance, it rejects the approach of the highway authority, unfairly labelling its approach erratic.

(ii) GAG's modelling is problematic

- inputs are the highest that it might be possible to argue for;
- an un-validated model is used for one junction;
- it introduced an artificial constraint (100pcus per hour) on the northbound flow on Micklethwaite Lane which is unjustified by the evidence and in the a.m. peak is less than the measured flows thereby necessarily giving the result that the junction operates over capacity;
- such constraints that have been introduced are based upon a dubious evidence base, i.e. the absence of proper evidence to support the proposition of 50m of one way working on Micklethwaite Lane in the peak hour (9 cars) when the only survey evidence<sup>13</sup> suggests at most 2 or 3 are parked there with limited extent of 1-way working; and the assumption of the bridge opening 10 times each hour in the peak;
- unwarranted trip distribution based upon no logic e.g. Lady Lane and Oakwood Drive in the p.m. peak;
- GAG applies growth to 2022, even though local surveys indicate none.

(iii) criticisms of the applicants' use of TRICS data and pedestrian crossing timings which go nowhere.

5.25 Overall GAG's work is problematic and reliance upon it requires caution. Two points illustrate the unwarranted dismissal of the conclusions of others. Firstly, when the previous views of the SoS were put to GAG<sup>14</sup>, it suggested that its view and that of the SoS lay on opposite ends of the spectrum of reasonable professional judgment. GAG emphatically rejects the proposition and characterised the view of the SoS as beyond the reasonable spectrum of opinion. Such a contention is as extraordinary as it is unwarranted.

5.26 Secondly, GAG contends that both its and the applicants' assessment of commitments is seriously flawed because neither took account of the possible lawful use of 3 lapsed permissions which were bound to have lawful uses which could generate traffic (Doc 87 paragraph 2.1). This point goes nowhere since, as the lpa demonstrated, one of the sites is a cleared site and has a nil use, the second is a field in grazing use and the third is a small unused church. However GAG clung to the proposition, contending that it was necessary not just to assess commitments but to look at the lawful uses of all underused or vacant sites within the study area, otherwise a TA would be

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<sup>13</sup> Observed from CCTV recordings.

<sup>14</sup> X-Examination of Mr Lowe.

*"meaningless"*. Ordinarily it takes some effort to convince a professional witness to damage his own credibility by expressly adopting a daft position, but this position was freely volunteered by GAG's highway engineer who went on to then characterise both his and the applicants' work as *"meaningless"* for the same reason. GAG and their witness are wrong on the issue of how to approach lapsed permissions and wrong to the extent that characterises the appellant's work as *"meaningless"*.

### Trip Rates

- 5.27 The 2013 decision letter recorded that, for the reasons given by the 2102 Inspector, the SoS agreed that the use of average trip rates, as set out in the Highways SOCG, was appropriate (CD 10 paragraph 18 & CD 8 paragraphs 176-172). GAG seeks to revive these arguments without success. Two points are raised by GAG. The first is that 85<sup>th</sup> percentile rates should be used in preference to average or locally derived rates and secondly that its dataset should be used in preference to that of the applicants. On the latter point, GAG unequivocally conceded<sup>15</sup> that the applicants' selection of sites from the TRICS database made absolutely no difference to the outcome of the inquiry. That is because GAG accepted that the applicants' 85th percentile rates were acceptable and higher than theirs. In any case it is the firm and robust evidence of the applicants that average trip rates are appropriate having used local rates as a sensitivity test, to verify that average rates mirror what actually happens on the ground. Now the applicants put precisely the same case as had been accepted by the SoS in 2013.
- 5.28 GAG's highways witness appears to contend<sup>16</sup> that one should always use 85<sup>th</sup> percentile rates to ensure robustness. However, it was no surprise to learn that in other cases he had used average and local trip rates on a: *"a horses for courses approach"*. However, he chose to characterise the lpa's stance as *"erratic"* and *"inconsistent"* in using 85<sup>th</sup> percentile rate in some instances and average or local rates in others. Thus, it seems that GAG's highways witness actively resiled from a thoroughly bad point.
- 5.29 GAG's argument centres upon the approach advocated in GoTA<sup>17</sup>. However that misses 2 obvious points. Firstly, GoTA has been withdrawn<sup>18</sup> as guidance and the advice in PPG whilst not specific about how to calculate trip generation rates, is clear that what is crucial is to ensure the agreement of the highway authority. This has been done throughout this process. Secondly, GoTA is clear that the objective of the exercise is to seek to derive realistic estimates of the likely trip generation from the development (GoTA paragraph 4.57). Moreover, the former guidance specifically draws attention to the desirability of seeking data from sites with comparable accessibility (paragraph 4.62). It is only where such comparable data is not to hand that the use of the 85<sup>th</sup> percentile rate is advocated. Indeed, even then the guidance advocates using both the 85<sup>th</sup> percentile rate and the average rate as sensitivity tests. That is not an abstract exercise but an exercise to

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<sup>15</sup> X-Examination of Mr Lowe.

<sup>16</sup> Evidence-in-Chief of Mr. Lowe.

<sup>17</sup> Guidance on Transport Assessment, Department of Transport & Communities & Local Government March 2007.

<sup>18</sup> 22 October 2014

determine realistic rates for the development. As the applicants point out there is good reason to think that this site would have a lower trip generation rate given that it is better related to services and facilities, that it would benefit from the implementation of a TP and it contains a component of AH that would have a lower trip generation rate than market housing.

5.30 The data from the housing area at Oakwood Drive demonstrates that the average is demonstrably far closer to the likely trip generation than the 85<sup>th</sup> percentile rate (Doc 50 pages 57 & 58). Thus, exactly the same reasons as were accepted in 2012 for the use of average trip rates remain valid now albeit based upon updated survey data. The use of 85<sup>th</sup> percentile trip rates in this case is inappropriate and is likely to significantly overstate the impact upon the local road network. That fact alone vitiates GAG's evidence as a proper basis for decision making. Using more realistic assumptions, the applicants undertook a sensitivity test for the network using the 85<sup>th</sup> percentile, which demonstrates that the network still works with the development traffic (Doc 54). This shows that it is GAG's other assumptions that render its work unreliable. Even then GAG seeks to argue that the Oakwood Drive data is unrepresentative since if one takes a marginally off-set period from the assessed peak hour then the Oakwood Drive data is higher. However, that argument lacks force. Firstly the difference is marginal and secondly it involves data for a period other than the peak hour being assessed, which makes little empirical sense.

5.31 It is difficult to escape the inference that this debate has troubled the inquiry not because there is any force to GAG's points, but rather because there is recognition that the impacts of the development on the local highway network would be far less than it assesses if the average trip rates are used. For the avoidance of doubt however the full pattern of trip generation from Oakwood Drive was before the SoS on the last occasion. Therefore, if this issue had any force then would have been mentioned on the last occasion.

#### The Replacement Pedestrian Swing Bridge and deliverability

5.32 The 2012 Inspector appears to have concluded that the pedestrian swing bridge was necessary in order to render the site accessible and accordingly recommended the imposition of a Grampian style condition. The reasoning for the imposition of such a condition was expressed to be shortcomings in the delivery mechanism of the S106 Agreement. No such shortcomings exist now. The S106 Agreement imposes an obligation upon the Ipa, to secure planning permission and to then secure the delivery of the bridge using £500,000 from the applicants. That figure is substantiated as being sufficient to deliver either a replacement swing bridge or a fixed over-bridge in the location of ABC's private swing bridge (CD 61).

5.33 The bridge would be delivered by the Council in co-operation with the Canals and River Trust (CRT), and accordingly its design does not form part of this application. However, matters are much further advanced than was before the 2102 Inspector, as well as being more nuanced. Whilst an over-bridge remains an option, the preference of all parties is to replace the existing ABC footbridge with an at-grade bridge (Docs 31, CD 60 & Doc 30). It is agreed that an at-grade solution would be better in heritage terms, better in visual

terms as well as providing a far more accessible solution for the mobility impaired<sup>19</sup>.

- 5.34 If the over-bridge solution were to be pursued then the consent of ABC would not be needed. That is because ABC's lease relates to moorings along the northern bank of the canal, a right of way linking the moorings with the clubhouse and a lease of the area around the latter which benefits from only limited utilities and services (Doc 21). An over-bridge would not interfere with any legal interest of ABC, and their private swing bridge could remain, albeit that it exists pursuant to a bare license which is determinable by either CRT or ABC for any reason on 6 months' notice (Doc 22). Thus, as matter of law either bridge could be built irrespective of ABC's consent. However, throughout the applicants and CRT have committed to progress an at-grade bridge only with the agreement of ABC.
- 5.35 In 2012 only the over-bridge was under consideration, whereas now the at-grade bridge is a realistic alternative, initial designs exist and a formal and highly positive pre-application consultation has taken place (CD 60). CRT makes it clear that, whilst the technical detail of the bridge needs to be resolved, the only in principle sticking point from its perspective is any opposition from ABC, who now neither object nor support the application (Doc 103).
- 5.36 GAG seeks to emphasise that the only real sticking point to the delivery of the pedestrian swing bridge is not heritage issues, visual impact, funding, the S106 Agreement or mobility concerns, but rather the fact that the agreement of ABC has not been forthcoming. That is not the case and a letter setting out heads of terms which would ultimately form the basis of a formal agreement has now been signed by Redrow, Bellway and ABC (Doc 30). The implicit acceptance of that position is the subject of a letter from the CRT (Doc 32).
- 5.37 Whilst the footbridge does not have planning permission, given the Ipa's pre-application response and the likely acquiescence of ABC that does not present anything like as substantial a hurdle as it might have been had the over-bridge been the only option. Whilst, at this stage, the timing of such a bridge is necessarily unknown, the S106 Agreement places tight temporal burdens on the Ipa and there is every incentive to get on with it. Whilst there would be a need to formalise the heads of terms agreement with ABC and to secure the necessary consents to facilitate such an agreement, there could not be a clearer commercial impetus on the applicants to ensure that such arrangements are in place as soon as practicable.
- 5.38 GAG is correct that there are "no guarantees". However the overwhelming likelihood is that an at-grade option would be delivered pursuant to the S106 Agreement, if permission is granted. Moreover, if such a bridge is not delivered then the position is now different to that put to the 2012 inquiry. Then the money would have reverted back to the applicants whereas now the money would be deployed to secure sustainability objectives by rendering the

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<sup>19</sup> Evidence-in-chief of Mr Brown.

site more accessible by diverting an existing bus service into the site (Doc 27). The issue of deliverability is now decisively established.

5.39 Whether the obligation in the S106 Agreement is "*necessary to make the development acceptable in planning terms*" depends upon what conclusion is reached on other issues. GAG agrees the following:

- (i) whilst the covenant to pay £500,000 may be enforceable, it is not to be taken into account if the site is considered to be sufficiently accessible without it and the planning balance otherwise favours the granting of permission;
- (ii) if the site is considered to be sufficiently accessible without the obligation to pay £500,000, but there remains harm in the planning balance which is capable of being outweighed by a benefit in land use terms then that obligation is capable of being taken into account to weigh against such harm. This is the most likely eventuality; or
- (iii) if it is considered to be essential to secure not just the sustainability benefits arising from the £500,000, but specifically it is essential to secure the new pedestrian bridge then a Grampian condition of the sort recommended by the 2012 Inspector should be imposed.

5.40 The latter appears to be GAG's case, who uses that proposition as a reason to argue that delivery of the housing within 5 years is uncertain and that therefore the weight to be afforded to that benefit is limited. That is wrong and the putative programme of delivery is considered to be robust and is commended to the SoS i.e. delivery of 240 houses within 5 years (Doc 4).

Effect on the Highway Network when the Bridge is Operational

Lady Lane

5.41 In normal operations GAG concedes that the Park Road/Lady Lane and Lady Lane/Oakwood Drive junctions would operate satisfactorily as would the 2 roundabout junctions. It is not surprising that GAG comes to that conclusion since GAG's assessment does not push any traffic down those junctions from the development but instead wrongly directs it all through the Micklethwaite Lane/Keighley Road junction.

5.42 GAG raises a safety concern about the operation of the Lady Lane/Oakwood Drive junction. That is not because of any concerns over achieving visibility splays since the most recent speed surveys demonstrates that without a 20mph TRO, speeds are already sufficiently low to provide satisfactory visibility with the proposed build out. GAG's point seems to relate to the construction of a traffic island uphill from the junction, which would leave a carriageway width of less than 3m and could result in supposed danger to cyclists. That suggestion is misguided. Firstly, the island is not strictly needed. Visibility splays to the nearside kerb are achieved following the installation of the VMS and the Y distance does not now have to be measured to the traffic island. This would be further reinforced by a 20mph TRO. Second, it assumes that a driver would overtake a cyclist travelling downhill immediately adjacent to a traffic island close to a junction.

### Micklethwaite Lane/Keighley Road

- 5.43 This junction did not warrant a sub-heading in the 2012 Inspector's report. This shows that the intensive concerns over this junction at this inquiry is a clear difference of emphasis to the case being put by GAG compared to that before the 2012 Inspector. However it is wrong to contend that this junction was not carefully scrutinised by all 3 highway witnesses who gave evidence in 2012. It is troubling that GAG criticised the applicants and the Ipa for not having ensured that a Road Safety Audit (RSA) had been presented in relation to the junction. GAG is factually wrong. The 2011 RSA undertaken by the applicants was before the 2012 Inspector, and has informed the approach taken by the applicants in the current scheme.
- 5.44 GAG presents a LINSIG computer model of the Micklethwaite Lane/Keighley Road junction which shows that the junction is over-capacity and gives rise to highway safety issues. However, GAG's inputs are unreliable as they over-estimate base flows and over-estimate the development traffic. Moreover, GAG has adjusted the model by introducing 2 unrealistic and artificial constraints. The first is that parked cars on Micklethwaite Lane have been witnessed. It is important to note that GAG has not surveyed parked cars, merely referred to snapshot. GAG has seen<sup>20</sup> that there is space for 11 cars to park between No. 11 Micklethwaite Lane and the junction with Keighley Road. GAG assumes that all of those spaces would be parked up and that the road width would result in one-way working along that length of 11 parked cars. Moreover, GAG has inputted an artificial constraint into the LINSIG model to assume that only 100 pcus would pass through that length of road in the a.m. peak. Since that is less than the recorded flows in the a.m. peak, and since LINSIG is designed to identify where capacity exists GAG has in effect set a model running with a pre-set determination that flows would be over-capacity. The same unreasoned imposition of an arbitrary capacity has been fed into the model in the p.m. peak. In the p.m. peak GAG assumed a higher figure of 500 pcus although this is not at all apparent from the modelling report (Doc 87).
- 5.45 Thus, not only is the model fatally flawed as a result of the arbitrary initial constraints it is also based upon the fallacious assumption that there would be at least 50m of one way working during the peak hours. That is flatly contrary to the evidence. That is not to say that there is no evidence of parked cars, but rather in that crucial area in front of Nos. 1 to 11 Micklethwaite Lane, where 3 of the houses do not have off-street parking the CCTV evidence is that usually, in the a.m. peak there are only 2 cars parked in that location, but only once, in the p.m. peak was a fourth car parked there for not more than 2 minutes, other than that the maximum in the p.m. peak was 3 parked cars (Doc 8). It follows that far from a long platoon of parked cars there are cars parked with space in between to enable cars to pause and allow oncoming traffic to pass without stopping other than momentarily. Such momentary pauses do not inhibit the operation of LINSIG or rather do not warrant the arbitrary constraint assumed by GAG.
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- 5.46 Similarly, the width of the road is such that even with a parked car there would be 4.1m available, which is the least that MfS considers wide enough to allow 2 normal saloon cars to pass. That is not to say that all cars will choose to slowly pass each other rather than momentarily wait. Rather it shows that it is just wrong to allege that one-way working would inevitably result so as to heavily throttle the capacity of the road. Finally, it is to be noted that the one marked out space for a disabled car is directly opposite the bell mouth of a junction which self-evidently facilitates the passing of 2-way traffic. Despite GAG's mathematics involving car widths the reality is that GAG's assumption of a 50m stretch of one-way working justifying a severe constraint being fed into to its model is inherently flawed.
- 5.47 GAG's has undertaken a dynamic model assuming an interaction between the Micklethwaite Lane/Keighley Road junction and the operation of the replacement bridge. This models the latter as a signal controlled junction with a 250 all-stop cycle every 360 second cycle, which is then run 10 times to produce a run of one hour. The logic of that position is that GAG's Degree of Saturation (DoS) and Mean Max Queue (MMQ) which results from this model arises from the interaction of queuing between the canal bridge and the junction based on the absurd assumption that the canal bridge opens 10 times in each peak hour.
- 5.48 That position is flatly unsupported by the evidence which shows at most 2 closures during the p.m. peak hour, and that during the peak month of August when network flows are much lower than normal operations. Third party video data purports to show 3 such events on one occasion but that is because the timings on the CCTV are out by 8 minutes. In any event no-one has suggested anything like 10 since the average even in the peak months in the weekday is no more than one in the peak hour, and for most of the year it is far lower. GAG argues<sup>21</sup> that the results would be the same if the cycle was run only once. However that is unproven by any actual modelling evidence. More importantly it does not bear logical scrutiny. The model has been run 10 times over an hour for a purpose and involves positive feedback between queuing at the bridge and queuing at the junction. If traffic is repeatedly constrained by the canal on a road which GAG defines as lacking capacity for the base flows there is bound to be an accretion of queuing back such that the junction is interfered with.
- 5.49 GAG makes great play of how the width of the pedestrian crossing on the left turn from Keighley Road into Micklethwaite Lane has been marginally widened so as to better accommodate HGV turning traffic. The inference being that the crossing time has been underestimated in the model and that the result of the applicants' work, despite being agreed by the highway authority, cannot be relied upon. GAG concedes<sup>16</sup> that the distance of the crossing at Keighley Road makes no difference to the applicants' model. GAG's concern regarding the Green Man time of the left turn arm into Micklethwaite Lane is irrelevant because the pedestrian crossings on the initial design submitted in the applicants' evidence showed an "all red" period

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<sup>21</sup> <sup>16</sup> X-Examination of Mr Lowe.

(Doc 50). The longest crossing time, which is the crossing across Keighley Road, actually controls the whole crossing Green Man time.

- 5.50 GAG criticises the applicants' assumption that the pedestrian crossing would only be called every other cycle. The applicants have observed the crossing in the morning peak and that the crossing would be called every other cycle is a robust assumption save for the "peak of the peak" when the crossing is repeatedly called by school children over a 10 to 15 minute period. GAG contrasted that operation with the fact that the result of the applicants' modelling showed that the DoS of the model was approaching 90%, which is the threshold of theoretical practical capacity. However, whilst the figure approaches 90% there remains sufficient headroom to cope with the "peak of the peak".
- 5.51 If the above is thought to be a problem then a walk-with traffic junction design could readily be achieved and accommodates peak hour flows, and would generate much greater junction capacity (Doc 13). That solution is not part of the applicants' case but it remains open to the highway authority to require it as part of the S278 works. In response GAG goes through the unseemly process of contending that a pedestrian crossing a main road would not wish to wait for the few seconds of time for the respective signals to allow him/her to cross but would instead look to take their chance against a stream of traffic on Keighley Road which is not being held by a red light. Such an approach is deeply un-compelling in this and a walk-with traffic solution should provide the ultimate comfort to the SoS that there is simply no issue with the capacity of this junction.
- 5.52 GAG is left with 2 comparatively minor complaints: (i) that a HGV turning left into Micklethwaite Road, faced with a parked car might also be faced with a queue of cars waiting to turn right out of Micklethwaite Lane; and (ii) that there may be difficulties in accessing the shops. As to the first, GAG agrees<sup>22</sup> that a junction is not to be designed for every conceivable movement of vehicle. Whilst GAG raises the issue of difficult HGV manoeuvres, the highway authority is of the view that this would be sufficiently occasional that it would be unnecessary to ensure that a turning HGV would be accommodated in the circumstances described.
- 5.53 The reality is that HGV traffic forms a pitifully small proportion of flows through this network. In the event of an HGV obstruction, the obstruction would clear in one cycle<sup>17</sup>; and moreover southbound traffic would only be stopped at one point in the cycle, at the other point when the left green arrow shows for the putative HGV the queue would benefit from a green light enabling a polite driver to let the HGV pass. The reality is that GAG's scenario relies on the occasional turning HGV: (i) turning in the peak hour; (ii) encountering parked cars, (iii) encountering traffic stationary in the right turn lane on Micklethwaite Lane; and (iv) stopping sufficiently close to the junction that its rear end over-sails the pedestrian crossing. Even then the conclusion is "so what" that very occasionally a vehicle is momentarily stationary on a pedestrian crossing especially since the crossing would have a red man

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<sup>22</sup> <sup>17</sup> <sup>18</sup> <sup>19</sup> X-Examination of Mr Lowe.

showing at the time that the left filter lane is on green. GAG agrees<sup>18</sup> that this occasional event has to coincide with other events to create real difficulty which palpably reduces the probability of the overall event.

- 5.54 That the latter point is raised at all is indicative of an approach which overstates flows and looks for problems. In a similar manner the issue of safe access to the shops is plainly achievable, but it would be ludicrous to be able to point out every detail of the precise design at this stage. GAG accepts<sup>19</sup> that there is a long process before the junction would be constructed and at this stage the decision maker has to be satisfied that a safe access can be created which does not give rise to a severe impact. For this junction in particular the evidence comes nowhere near doubting that the conclusion of the SoS in 2013 was other than the right one.
- 5.55 GAG points to a plan produce by the applicants which show a very long queue length on Micklethwaite Lane (Doc 51 APP B page 131). That queue length is generated on the longest queue length ever recorded in 15 years of surveys. It is just wrong to use such an extreme and then to start adding in further vehicles. Even if such queuing were to occur it would soon dissipate i.e. it would clear in one cycle. In effect this is another "so what" point.

#### Main Street/Park Road

- 5.56 It is not altogether clear whether GAG contends that during normal highway operation the impacts upon this junction would give rise to an impact of concern. Certainly GAG accepts<sup>23</sup> that its model was not validated and was based upon an erroneous junction layout with far less lane storage capacity. The applicants' model shows that whilst for some movements the DoS would be in excess of 90%, the actual operation of the junction would not be problematic since the queue lengths that would arise post development would not be excessive and could be accommodated in the current road layout. In effect during that part of the peak hour where the MMQ is as described by the applicants the future driver would have a few additional seconds to wait in a queue which is not an excessive one (Doc 54). GAG accepts<sup>24</sup> that the operation of this junction would not of itself give rise to a severe impact in terms of Framework paragraph 32.

#### Effect on the Highway Network when the Emergency Access is in Use

- 5.57 Following detailed meetings with the Council's CCTV Officers and obtaining specialist advice, the applicants propose the installation of an automated bollard control system. These proposals appear to be agreed to be capable of overcoming the SoS's concern which led to the dismissal of the appeal last time. That is because, as all parties now accept, the new measures would substantially reduce the time period taken to open the alternative route through the site, via Micklethwaite Lane and Oakwood Drive, to no more than between 3 minutes 11 seconds and 8 minutes 5 seconds (Doc 6).

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<sup>23</sup> X-Examination of Mr Lowe.

<sup>24</sup> X-Examination of Mr Lowe.

5.58 The 2012 Inspector concluded when the swing bridge or the emergency access was operational the appeal proposals would not unacceptably reduce highway safety or interfere with the movement of road users. That conclusion is now challenged based on GAG's modelling exercise and in particular the impact on of Lady Lane and Park Road junction where it is projected that there will be hours of delay to cars that have been diverted through Oakwood Drive, resulting in a severe impact (Doc 87 paragraphs 3.15 to 3.17). That is because the delay itself would be excessive, even if the event was an infrequent one, but also during that time that Micklethwaite village would be used as an alternative rat run, which was the concern of the SoS in 2013.

5.59 The problem for GAG is that the conclusions derived from the model are based upon patently absurd premises. Firstly, the model is based upon flawed assumptions described above. Secondly, a distribution of traffic in an emergency situation which GAG assumes verges upon the ludicrous. There are a number of criticisms that could be levied at GAG's distribution, but the principal one is that it assumes that all traffic that would be diverted from the development including that which would otherwise have turned right out of Micklethwaite Lane would in an emergency situation travel to the end of Oakwood Drive and then turn right towards Bingley town centre. GAG assumes that no vehicles would turn left out of Oakwood Drive, despite the fact that this would be the obvious choice for vehicles that would otherwise have turned right out of Micklethwaite Lane. That is not a sterile debating point since in the a.m. peak that is the largest direction of travel. Similarly GAG assumes that faced with the emergency situation when some drivers would be informed by text or email that traffic generation would remain unaltered and there would be no staggering of journeys or modal shift to alternative modes i.e. walking the children to school that day, or walking to the station. In short GAG's case on this issue lacks credibility and no reliance can be placed upon it.

5.60 The applicants'<sup>25</sup> assessment is that the worst delay on any one junction arm during the emergency operation would be 12 minutes. This was not seriously challenged and the applicants' offer to provide evidence was not taken up. Indeed not only is the applicants' evidence before the inquiry there are also the SoS's conclusions on precisely the same issue based upon the Ipa's evidence and its model at that time. GAG's evidence lacks any credibility and there is plainly better evidence to set against it upon which the SoS can be clear that the network would operate properly during any emergency.

Effect on the Highway Network when the Swing Bridge is closed to Road Traffic and Before the Emergency Access is in Use

5.61 GAG confirms<sup>26</sup> that it is not part of its case to put forward alternative emergency access times. It is common ground that the emergency access opening times would be very significantly shorter than they were in 2012. The emergency access would be open within 3 to 8 minutes of a problem, which would not result in any material flows into Micklethwaite village. GAG

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<sup>25</sup> Examination-in-Chief Mrs France

<sup>26</sup> X-Examination of Mr Iowe.

suggests that a vehicle queuing at the bridge would go up through Micklethwaite village. That is possible for those already in the queue; i.e. no more than a handful. But in terms of the idea that many would choose to drive through Micklethwaite village, that is wrong. Firstly, drivers here know the local road network and know Micklethwaite village. Secondly, on GAG's analysis, why would people go through the village when they could turn left out of Oakwood Drive? Thirdly, these would not be uninformed motorists. Those from the new development would have had advance warning and so would not drive to the bridge and then do a U-turn. That is a fallacious proposition.

#### Oakwood Drive/Lady Lane Junction

- 5.62 This junction would operate properly within normal traffic conditions, and even under GAG's extreme assumptions of emergency network operation, flows out of Oakwood Drive would be all but free flowing. GAG's flawed issue of safety at this junction is addressed above.

#### Airedale Mills

- 5.63 The 2013 Inspector found that inconvenience to users of Airedale Mills and drivers of large vehicles was not sufficiently material to justify dismissing the scheme (CD 8 paragraph 61). This was not a live issue at this inquiry and there is no reason to depart from this analysis or determination.

#### Sty Lane

- 5.64 The 2013 Inspector concluded that there were merits in the imposition of a one way TRO in respect of Sty Lane and that the inconvenience to a limited number of residents would not be unacceptable (CD 8 paragraph 202). Such a case is not being run here; rather GAG has finessed the concern by pointing out that the applicants have not reassigned the comparatively modest flows along Sty Lane in the direction which is to be prohibited to the remainder of the network. The applicants' evidence that the flows are low and likely to be dispersed so as not to make a difference is a compelling point. However GAG's assessment by contrast is to assume that all of the diverted traffic would in future choose to reroute via the town centre at peak hours thereby passing through 2 sets of pedestrian crossings and 2 sets of traffic lights. Whilst the applicants' route for a putative future visitor from Crossflatts to Greenhill is much longer it has the benefit of taking the driver away from a busy town centre during the rush hour. To assume that no driver would choose such an obvious alternative, which is GAG's contention, is typically wrong, and leads to an overstating of flows in each of the instances modelled. Indeed, GAG concludes that such people would take that route when the VMS signs indicate that the bridge is down and that even more than usual congestion could be expected in Bingley town centre. Once again GAG's approach is singularly unrealistic.

#### Micklethwaite Lane (Parking)

- 5.65 The contrast between the sources of evidence on this issue is worth highlighting. GAG submitted a photograph of parked vehicles on Micklethwaite Lane. However, no specific date or time of the photograph was

provided, but it evidenced 6 parked cars in all, of which 4 were outside Nos. 1 to 11 in the critical narrow part of the road. Importantly it did not evidence the 11 parking spaces being used that led to GAG's constrained input into the model as described above. The only comprehensive evidence of parking on Micklethwaite Lane is from the applicants' Technical Report with 2 cars parking in the a.m. peak and up to 2 in the p.m. peak, taking into account one further parked car but only for 2 minutes (Doc 8).

#### Conclusions on highway matters

- 5.66 The applicants have comprehensively addressed the very limited concerns raised by the 2013 Inspector. The applicants' evidence has been tested and has been demonstrated to be robust and resilient. The evidence of GAG can be characterised as irrelevant, misconceived or flawed. Where there is conflict between the conclusions of GAG and the applicants, the applicants' evidence should be preferred.
- 5.67 Finally, whilst an interested party raised concerns over emergency access to new homes, there have been no objections from any health service provider or ambulance service (Doc 96). Had there been a real concern then such an objection would be expected to have been made. In reality the above analysis demonstrates that there is simply no issue in terms of access by emergency services to the new and existing residents.

#### Character and Appearance (including Heritage Considerations)

##### Overview

- 5.68 Heritage effects are the other string to GAG's opposition bow. However, it has been no part of GAG's case to revisit the conclusions of the 2012 Inspector on any of the designated or undesignated HAs. Indeed that position is common ground between the applicants and the Ipa, none of whom seek to go behind the SoS's conclusions on this issue.
- 5.69 The applicants<sup>27</sup> explain that where the evidence uses different terminology to that of the 2012 Inspector that is because previous evidence was couched in terms of an EIA assessment which combined impact with sensitivity and produced an "effect" which was dependent upon both dynamics. However, properly understood this assessment mirrors that of the SoS and the 2012 Inspector. Thus, in all instances there would be a less than substantial impact upon any designated or undesignated HA, such that the balance in paragraph 134 of Framework is engaged. The impacts on the Leeds Liverpool Canal CA falls full square within the range covered by less than substantial harm to significance, the impact upon the setting of Laythorpe Farmhouse results in an effect upon its significance towards the higher end of that range whereas all other impacts fall towards the very bottom of that range.
- 5.70 Against that has to be balanced the wider public benefits that would arise from the scheme as well as the heritage benefits which both GAG and the applicants told the inquiry would arise and which an interested party has

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<sup>27</sup> X-Examination of Mr Brown.

been seen in at least one instance to secure (Doc 94). For the unlisted cup and ring carved stone its context would be improved so as to better enable public understanding; a point also recognised by the 2012 Inspector (CD 8 paragraph 219).

- 5.71 In respect of the stone chambers whilst there would be an impact, recognised by the applicants and the 2012 Inspector, local interest in the chambers has led to a claimed importance which is disputed. Nonetheless it is agreed that that archaeological work would be undertaken to better understand the structures and the lime kiln rings near to them. It is also agreed that interpretation boards could be provided together with permissive public access to the area in order to better understand this remnant of the industrial era and the heyday of the Leeds Liverpool Canal. Finally, it is agreed that as part of any detailed approval that the context within which the structures would sit would be improved both aesthetically and also in order to facilitate understanding of the structures.
- 5.72 The rejection by Historic England (HE) of an application to list the structures evidences that their importance has not actually increased since the last inquiry. However that is not to downplay the sensitivity with which the structures are proposed to be treated. Thus, whilst the north-west chamber would be filled to provide structural stability it would be filled in a manner that is reversible, and it should be noted that it is at present bricked up. No change would occur to the other chambers save perhaps for essential archaeological investigation. Whilst the wall alongside Micklethwaite Lane would be repositioned in reality its interest is at the lowest end of the heritage interest perspective.
- 5.73 There is no proper basis to arrive at a different conclusion on heritage impacts to that of the SoS in 2013 based upon this latter issue. On the last occasion it is quite clear that the SoS weighed the impacts that he found in heritage terms against the public benefits in a manner required by Framework paragraph 134 and concluded the public benefits outweighed any impacts upon heritage significance (CD 8 paragraphs 249 to 252). Since the housing need has only increased, and since the "lime kiln issue" does not actually advance GAG's case it is difficult to see how GAG could successfully persuade the SoS to arrive at a different conclusion this time around.
- 5.74 Nonetheless GAG sought to argue that the SoS, whilst rightly identifying the degree of impact, had nonetheless ascribed insufficient weight to that impact. That was said to be because GAG could not detect from the 2012 Inspector's report or the 2013 decision letter the sort of weight that the Courts have indicated ought to be applied where there is an effect upon designated HAs. In short it was said that GAG could not detect either the "strong presumption against" adversely affecting such assets or the "considerable importance" attached to the preservation of their significance which arises from the Planning (Listed Buildings and Conservation Areas) Act 1990. Those propositions arise from the cases of *Barnwell Manor v East Northants* [2014] EWCA Civ 137 and *R. (on the application of Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin).

- 5.75 On the facts of this case that is an unsustainable proposition. Firstly the 2013 Inspector had his attention specifically drawn to the statutory duty by the applicants (CD 8 paragraph 75). Secondly the SoS states that he has paid "special attention", the phrase actually used in S66(1) of the Act, to the statutory duties placed upon him by S16, S66 and S72 of the 1990 Act in formulating his views on heritage (CD 10 paragraph 14). GAG rightly indicates that for their part they considered "paying special attention" was indistinguishable in substance from affording those considerations "considerable importance and weight". GAG properly recognises that Barnwell Manor did not make new law; rather in that case the Court of Appeal concluded that in that decision the Inspector had not properly applied the statutory test. GAG' planning witness accepts that but GAG appears not to because in closing submission it is suggested that following Barnwell Manor greater weight is to be attached. That is wrong in law, the Court in Barnwell confirmed the law; it did not create new law. At paragraph 29 of his judgment Sullivan LJ observed: *"For these reasons,... Parliament's intention in enacting section 66(1) was that decision-makers should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise. I also agree ... that the Inspector did not give considerable importance and weight to this factor when carrying out the balancing exercise in this decision. He appears to have treated the less than substantial harm to the setting of the listed buildings, including Lyveden New Bield, as a less than substantial objection to the grant of planning permission."*
- 5.76 The 2012 Inspector's report and the SoS's decision are incapable of being read in a manner which leads to the conclusion that either treated a less than substantial impact on significance as a less than substantial objection to the grant of planning permission. Rather the issue of heritage impacts was considered in a careful and detailed manner and it is plain that whilst it was considered to be outweighed by the public benefits which arose, the 2012 Inspector and the SoS did not treat those adverse impacts lightly. In short the legal error in Barnwell was patently not repeated in the 2013 decision.
- 5.77 Finally, the most recent decision of the High Court on heritage issues cautions against the use of an overly formulaic approach to this issue. In the case of *Mordue v Secretary of State for Communities and Local Government* [2015] EWHC 539 (Admin), the Judge expressed considerable doubt over the inferred obligation to demonstrate that considerable importance had in fact been ascribed to this factor. Nonetheless he accepted that he was bound by the decision in Barnwell Manor and formulated the test as follows at paragraph 49 of his judgment: *"Accordingly the reasons given by a decision-maker must demonstrate that the "considerable weight" was given to any harm to a listed building or its setting."* Any fair reading of the SoS's 2013 decision and the 2012 Inspector's report on this issue leaves no doubt that, whilst the precise words were not used, nonetheless considerable importance was indeed ascribed to the statutory duties under the 1990 Act.
- 5.78 The final, and least impressive, point raised by GAG in argument is that the title of this section of the 2012 Inspector's report does not make explicit reference to heritage. This is a deeply bad point which invites the reader to focus on process over substance and more importantly ignores the 2012



Inspector's formulation of the main issues where he makes the point explicit (CD 8 paragraph 156). Thus, GAG's case, is essentially a disagreement on the weight to be afforded to this consideration in the overall planning balance but absent any material change in circumstances which might warrant arriving at a different conclusion.

#### The Landscape of this Part of the Aire Valley

- 5.79 The loss of a significant parcel of greenfield land adjacent to an urban area rarely goes to an inquiry without a substantial landscape case being raised against it. For that reason the applicants engaged a landscape professional to prepare a detailed proof to address any such concerns that might arise (Docs 70 and 71). However whilst this issue takes up 3 detailed paragraphs of the 2012 Inspector's report (CD 8 paragraphs 204 to 206), neither GAG nor anyone else at the inquiry has raised this as a serious concern which ought to warrant the withholding of permission. Therefore there is no proper evidential basis for departing from 2012 Inspector's conclusions.
- 5.80 Indeed the point goes further, since in evidence GAG's planning witness expressly accepts that the development of the application site was not something that he was opposed to as a planning professional, whatever may have been the view of some members of GAG. Rather, his opposition was specific to this application and not to the principle of the development of this site, which he went so far as to say was a "good" site. Thus, the position has moved on such that none of the 3 principal parties raise this issue as a specific concern upon which this application should turn.

#### Leeds Liverpool Canal Conservation Area

- 5.81 Save for the fact that the issue of the stone chambers has received more attention than was before the 2012 Inspector and that the terminology of the impacts upon the significance of the CA need to be updated into more contemporary heritage parlance, the 2012 Inspector's conclusions remain essentially unaltered (CD 8 paragraphs 207 to 214). That includes the specific consideration of the effect upon Laythorpe Farmhouse (CD 8 paragraphs 210, 214, 249 and 252).
- 5.82 When judging impact upon significance, the HA is the CA as a whole and national guidance is concerned with an impact upon significance. Thus impact upon setting alone is a matter of indifference unless that impacts upon the significance of the asset. Whilst the language of the 2012 Inspector is unfortunate it is nonetheless clear from the Inspector's conclusions that he is addressing significance (CD 8 paragraph 214).
- 5.83 It is also clear that despite less than substantial impacts they are outweighed by the clear public benefits in accordance with Framework paragraph 134 (CD 8 paragraph 251). In this case, there is no reason to arrive at a different conclusion. Indeed it is startling how much of the applicants' evidence has not been subject to scrutiny, debate or even contradiction. Thus, evidence of design, landscape and bridge operation could have been supported by detailed witness evidence but were essentially unchallenged. Even the 5-year land supply evidence was not the subject of any meaningful challenge. Equally too there has been no challenge to the content of the ES, though the

TA has been rigorously, though unsuccessfully, assailed. It is startling for a scheme of this nature just how narrowly focused has been the concerns of those opposed to the proposal.

#### Micklethwaite Conservation Area

- 5.84 Any impact upon the Micklethwaite CA has always been no more than limited and an incidental part of any party's case at this appeal, and there is no reason to depart from the 2012 Inspector's conclusions (CD 8 paragraph 21).

#### Other Designated Heritage Assets

- 5.85 The conclusions of the 2012 Inspector that there would be no adverse effect upon any other designated asset has not been challenged by any party at this inquiry and his conclusions remain unaltered (CD 8 216 to 217).

#### Other Non-Designated Heritage Assets

- 5.86 There is no reason to arrive at any different conclusion on the impact on the non-designated assets considered by the 2012 Inspector (CD 8 paragraphs 218 to 219). Importantly that includes the 2012 Inspector's conclusion that increasing public appreciation of the Carved Rock by facilitating access and a beneficial context was a benefit of the proposals; which GAG accepts<sup>28</sup>.

#### Conclusions

- 5.87 There is no proper basis to draw any conclusions different to those of the 2012 Inspector, and GAG's points of alleged distinction are deeply unconvincing. Perhaps the only point upon which there is a difference is that of the possible effect of the new pedestrian bridge. The consultation response of the lpa for the swing bridge option is expressly based upon the response of the lpa's conservation officer who rates any impact on the heritage value of the canal as at the very lowest end of the spectrum (CD 60). That is all but consistent with the view of the applicants who rate it as likely to have a nil impact upon the CA. The SoS can be confident that the lpa's and applicants' preferred option for the pedestrian bridge would have little or no impact upon the heritage interest of the CA. This is a marked change from the position at the last inquiry.

#### Recreational Value of the Canal

This has been a non-issue at this inquiry.

#### The Development Plan and Policy

- 5.88 Following an erroneous saving request by the lpa, the SoS' saving direction issued in September 2008, resulted in unsaved policies expiring on October 2008. That included the allocation of the application site, which therefore carries no designation in the RUDP. GAG accepts that the fact of the site having been allocated is a material consideration to weigh in the balance, since it shows that the application site has been considered by the RUDP on its merits to be an appropriate site for development. That position is agreed.

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<sup>28</sup> X-Examination of Mr Nicholls.

- 5.89 The RUDP is now very long in the tooth and its strategy was prepared at a very different time in policy terms and under a less acute need for additional housing. The housing policies are out-of-date, and moreover the eclectically saved policies do its relevance little good when judging if the plan is up-to-date. GAG accepts that the heritage policies of the RUDP do not reflect the Framework especially paragraphs 133 to 135 and are therefore relevant policies which are out-of-date. GAG accepts that RUDP Policy TM2 is out-of-date as it does not reflect Framework paragraph 32. GAG agrees that Framework paragraph 49 is engaged so that the policies for the supply of housing are presumed to be out-of-date. On all of those grounds Framework paragraph 14 is agreed to be engaged.
- 5.90 GAG accepts that if the Framework paragraph 134 balance is passed then the footnote to paragraph 14 would not then disengage the paragraph 14 presumption as Framework paragraph 134 would not then be treated as a restrictive policy. Thus, in line with Framework paragraph 14, permission ought to be granted unless there would be significant and adverse effects. To that end GAG agrees that if its highway concerns were rejected then there was no reason to go behind the SoS's conclusions that the proposal amounts to a sustainable form of development (CD10 paragraph 16).
- 5.91 The emerging CS is unlikely to be adopted before some time in 2016 and before it can be relied upon to remedy any deficit. However, GAG fairly accepts that the application site and the delivery of housing on it accords with the strategy of both the adopted and the emerging development plan. GAG acknowledges that were the site not brought forward that it would have an important negative impact upon the delivery of that strategy, a point emphasised in unchallenged and highly detailed evidence by the applicants, and emphasised by the identification of Bingley as a principal town in the emerging CS. GAG's planning witness<sup>29</sup> made it clear that he was not opposing the principle of development of the application site only this particular development and that perhaps a further application might come forward if this one is rejected. Whilst that may describe the logic of his professional judgment it starkly underpins the intellectual bankruptcy of GAG's case. This site has been recognised as in principle acceptable for development for over a decade and now Bradford's need for housing is acute and chronic. In these circumstances the decision maker requires especially compelling reasons to accede to GAG's case, especially since it so obviously overlaps so much of the ground previously considered by the SoS.

### **Other Considerations**

#### The Green Belt

- 5.92 This has been a non-issue at this inquiry

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<sup>29</sup> Re-Examination of Mr Nicholls

### Housing Land Supply

- 5.93 The position as regards housing land supply is now agreed between the lpa and applicants to be "at best 2.05 years supply" (CD 3). At the time of the 2012 inquiry there was 2.5-year supply (CD 8 paragraph 233) which was still woefully short but some 25% greater than the position now and there has been a failure to meet targets, i.e. minimum need, since 2008. There was a 4-year record of under-provision at the time of the SoS's 2013 decision and now there is a 7-year failure and supply is dwindling. The situation of housing land in Bradford is that of an acute need in the context of a chronic failure to deliver.
- 5.94 The case of *Crane v SSCLG* [2015] EWHC 425 (Admin) clarifies that the absence of a 5-year housing land supply will not necessarily be conclusive in favour of the grant of planning permission. The weight to be given is a matter for the decision maker. Here, given the deteriorating land supply position and the failure to deliver both market and affordable homes is a consideration which, the applicants submit, should be attributed very substantial weight.
- 5.95 That this inquiry spent so much time on highway matters and so little on the housing supply position does not diminish its importance in the planning balance. It is a central plank of the lpa's and applicants' case that the contribution this scheme would make to meeting the deficit in market and AH is a matter of central importance to the determination of this application. This position is underscored by the ministerial speeches at the 2015 Conservative Conference by Greg Clark, George Osborne and the Prime Minister on the need to boost housing numbers.

### Nature Conservation

- 5.96 This was not a main consideration contested at this inquiry and the conclusions of the 2012 Inspector stand (CD 8 paragraph 234).

### The Tree Preservation Order

- 5.97 This is a non-issue.

### Availability of Access from Oakwood Drive

- 5.98 The applicants adopt the lpa's position. The 2012 Inspector and SoS were unconvinced by GAG's arguments that there was a ransom strip at the end of Oakwood Drive. The comprehensive documentation before the inquiry shows that the road is adopted, and that the highway extends beyond the physical end of the road and into the field encompassing the retaining structure (Docs 46 & 47). GAG's objection on this ground has been abandoned.
- 5.99 Also raised and rejected at the last inquiry was the contention by the owner of Bridge Cottage that his consent would be needed to construct the new canal bridge. No development is proposed on his land, and any over-sailing by the new bridge would be over adopted highway (Doc 35).

### Economic Considerations & Benefits

- 5.100 Save to the extent that beneficial economic consequences arise, and save for an interested party's misguided discourse, economic considerations have not

been a main consideration contested at this inquiry (Doc 63 pages 41 & 42). The 2012 Inspector's conclusions still stand (CD 8 paragraphs 230-232).

5.101 The economic benefits of the application would be:

- employment impacts during the development phase equivalent to the creation of some 70 on-site jobs and 200 jobs through a reasonable multiplier effect;
- a New Homes Bonus payment of some £3.4m;
- increased Council Tax revenues of some £600,000 from year 7

5.102 In addition to the above substantial economic benefits the applicants have made the following substantial financial commitments secured by a S106 Agreement (Doc 48). These include the considerable cost of the swing bridge, its maintenance and operation/maintenance of the emergency access system and:

- an AH subsidy of some £5m;
- education contributions of £1.84m;
- a new pedestrian footbridge provision of £500,000 to improve accessibility to the southern portion of the site;
- Metro Card provision of £332,900 to assist transport choice/modal shift;
- a contribution for off-site recreational improvements of £113,000;
- A contribution of £100,000 for VMSs;
- £91,000 for the new signalised Keithley Road/Micklethwaite Lane junction;
- Habitats protection contribution of £50,000;
- £37,000 for 20 & 30 mph TROs.

The Planning Obligation

5.103 This meets the provisions of Community Infrastructure Levy Regulations 2010, Regulations 122 and 123.

Other Matters

5.104 Two points are of note. Firstly an interested party's analyses of air quality issues are comprehensively addressed (Doc 12). Issues relating to drainage are addressed in the ES.

### **Conclusions**

5.105 A planning decision involves a weighing of benefits versus dis-benefits in order to determine whether it is in the public interest to allow a proposed development to proceed. An interested party sought to argue that almost all of the benefits are nugatory because they involve fiscal transfers as between different parts of the UK economy and no net overall investment. Such a

myopic approach to the weighing of planning benefits has not been made by any other party and GAG have not sought to downplay the benefits which were identified by the 2012 Inspector and SoS and again by the applicants (CD 8 paragraph 250 & Doc 63 Section 8).

- 5.106 Chief amongst the benefits is the contribution to meeting Bradford's acute and chronic shortage of housing in general and AH in particular; and in particular meeting those needs in a manner which is wholly consistent with the strategies of the adopted and emerging development plans. The role of the more affluent northern parts of the Borough in securing the economic future of Bradford has long been recognised. The reality is that this site ought to have come forward long ago, but the passing of time has at least resulted in far better emergency access arrangements being arrived at.
- 5.107 The other benefits should not be under-estimated. The 2-way vehicular swing bridge with a pedestrian footway is a substantially better solution for traffic and pedestrians (Doc 50 pages 33 and 34). Similarly there is no reason why barge traffic would materially alter, but the time that traffic will be delayed by such passage would be much less and the attendant queues would clear much more readily. Whilst the bridge is provided to serve the increased flows arising from the development, that should not detract from the proposed bridge as a far better infrastructure solution in the public interest.
- 5.108 Similarly the pedestrian bridge, would provide a clear benefit not just for the new residents but also existing residents who wish to access the urban area and existing residents who wish to access the countryside beyond. It produces significant benefits in terms of integrating existing communities and improving access which transcend the proposals, as would the proposed wider TRO. Overall this is demonstrably a good scheme which is much needed and which has been too long delayed and ought to be permitted without delay in the public interest. There has been no real challenge to the adequacy of the ES and a note on ES compliance and mitigation has been produced (CD 56). Similarly the provisions of the Habitats Regulations have been complied with. The Framework paragraph 14 presumption in favour of sustainable development is engaged and whilst there would be change and some harm, including that to HAs where the strong presumption and Framework paragraph 134 applies, nonetheless in the over overall planning balance the benefits of the proposal clearly and decisively outweighs the limited harm. Planning permission should be granted.

## **6. The Case for the Local Planning Authority**

The material points are: -

- 6.1 After careful and detailed scrutiny of the proposal, the lpa supports the grant of planning permission. The lpa's evidence demonstrates that it has paid proper attention to the issues raised by the application. The lpa's support for this application cannot be divorced from the context that in 2012 it opposed the schemes considered by an Inspector and the SoS which, taken together, comprised the same scheme as is before the SoS now (CDs 8 & 10).
- 6.2 At the 2012 inquiry, the lpa resisted the appeals on the grounds that the proposed emergency access at Oakwood Drive would be unacceptable. Then the lpa accepted that when the replacement swing bridge would be in normal operation, the access arrangements for the scheme would operate satisfactorily, with no unacceptably adverse consequences for highway capacity or safety. There were 2 strands to the lpa's concerns at the last inquiry. Firstly, in the rare cases when the replacement bridge failed in the road closed to traffic position there would be a delay of at least one hour between the time when the swing bridge failed and the time when the emergency access would be available. During that period of delay, traffic conditions on the local highway network would be unacceptable due to the congestion caused. Second, when the emergency access was open the alternative route would not be acceptable for the volumes of traffic using it, such that unacceptable highway conditions would exist by reasons of delay in the p.m. peak period on Park Road and because of substandard geometry at the Oakwood Drive/Lady Lane junction.
- 6.3 The 2012 Inspector did not agree with the lpa's second point, but agreed with the first. The SoS agreed with the Inspector's recommendation and refused planning permission on the grounds that the highway impacts would be severe during the period before the emergency access could be put into operation. The lpa accepted the Inspector's and SoS's judgment about the operation of the local highway network when the emergency route was fully open and so, as far as the lpa was concerned, the only outstanding issue was the question of the delay in opening up the emergency access for use.
- 6.4 As far as the lpa is concerned, the scheme has been amended so as to remove its former concern. The applicants have devised a scheme which deals with the concern about the delay caused in opening the emergency access. The scheme also includes proposals to improve the Lady Lane/Oakwood Drive junction and to further reduce traffic speeds on Lady Lane.
- 6.5 Now, the proposal is that the replacement canal bridge would be equipped with electronic telemetry equipment and monitored by the Council's CCTV control room. If a breakdown were to occur at the bridge which (a) leaves the road closed to vehicles and (b) is incapable of swift resolution, then a signal would be sent from the bridge to the control room where the fault would be interrogated electronically. If the fault could not be tackled within 3 minutes, then the emergency access could be opened immediately by the remote

operation of a retractable bollard at Oakwood Drive and the activation of appropriately located variable message signs.

- 6.6 The system proposed is simple, relies upon extant and well-tested technology and is to be appropriately funded. CCTV control is responsible for controlling existing moveable bollards in the District and what the applicants propose is not unfamiliar to them. The control room is staffed by more than one person at all times of the day and night and at all times of the year. There is no remote monitoring from staff's homes as has been claimed to happen in other Districts. These measures satisfy the concern the lpa had.
- 6.7 The lpa did not previously and does not now have any opposition to the applicants' scheme being granted planning permission for other reasons. The lpa's objections to this scheme have been overcome and the lpa is able to support the application. That the lpa has approached the assessment of the application with care is supported by the fact that the lpa has taken the time and trouble to co-operate with the applicants to produce a very comprehensive set of SoCG. Those SoCGs have served their purpose in that they have minimised the evidence which the lpa needed to produce. The SoS should have full regard to those SoCGs in order to understand the lpa's position on a large number of issues.
- 6.8 GAG has not paid much attention to the amendments to the emergency access route's activation process. It has hardly figured in their case. Rather, they have fought a case which seeks to revisit a whole host of issues upon which the 2102 Inspector and the SoS found against them when considering the last appeals. GAG is, of course, at liberty to disagree with the previous judgments reached by the 2012 Inspector and the SoS. However, the previous decision letter and Inspector's report are agreed to be a material consideration in making the decision in this case. It is also common ground that consistency in decision making is material and that whilst a previous decision is not binding and can be disagreed with; reasons need to be given to explain to those reading the decision why a different approach has been taken. In making their case, GAG understandably concentrate most of their fire at the applicants, but have also drawn the lpa into the debate by seeking to show that the lpa has not given proper consideration to the merits of the applicants' proposal.
- 6.9 It is not accepted that there has been any want of scrutiny by the lpa as regards the application or that the judgments that the lpa has reached are unsound. As regards the aspects of the application which raise issues about highway capacity and safety, the application has been carefully considered by the Council in its capacity as the highway authority. The degree of contact between highway authority and the applicants has been detailed and taken place over several years. The highways information contained in the application documents and TA was not accepted uncritically by the highway authority. That information was scrutinised and tested and that led to discussions and requests for the applicants to provide more information on certain issues. As a result of that iterative process, which took place against the background of a previous fully fought inquiry between lpa and the applicants, the lpa has properly concluded that it can support the proposal in



highway terms. That judgment should be afforded substantial weight in the decision making process.

- 6.10 In light of the detail of the issues that have been debated principally between the applicants and GAG, the Ipa has not changed its position and it does not consider that there are any issues relating to highways and traffic which would mean that planning permission should be withheld. The SoS can note that the Ipa's stance remains one of supporting the application and that it supports the judgments formed and expressed by the applicants' highways evidence and as tested during cross-examination.
- 6.11 Paragraph 32 of the Framework imposes a high burden on a decision maker before planning permission can be refused on highways grounds. If GAG is to succeed in showing that planning permission should be refused on transport grounds, then it needs to show that the residual impacts of the proposal would be "severe". It is agreed that that is the right test to apply in this case and that the tests of policies of the RUDP have been overtaken by the Framework. GAG's highways evidence does not demonstrate that the residual impacts would be severe. GAG's cross-examination of the applicants on highways matters sought, in effect, to cast the burden on that evidence. As was rightly observed, the test for unacceptability on highways grounds is a high one. But it does not follow from that proposition that if the applicants' assessment somehow falls short, not that the Ipa believes that it does, then there might be serious doubt about whether an impact was severe. The point put is a true non-sequitur.
- 6.12 GAG's highways assessment and evidence can be contrasted with that of the applicants' and the Ipa. The applicants' written and oral evidence was measured, well-reasoned and realistic. The same cannot be said for that of GAG. The assumptions it uses and the judgments formed relied upon taking many variables to unreasonable extremes. GAG uses 85<sup>th</sup> percentile trip rates. The assessment of the impact of the development traffic upon the highway network in both normal and emergency operations inappropriately amalgamated the results of different surveys to use the highest flows ever recorded on each arm of the junction. GAG applies growth factors which do not accord with the changes in flows observed over time. GAG wrongly assumes that all 440 dwellings would take access via Micklethwaite Lane and that Oakwood Drive could not be used by up to 22 dwellings in normal operations. GAG has not validated its modelling. When assessing the effect of the opening of the bridge upon the capacity and safety of Micklethwaite Lane and its junction with Keighley Road, GAG has (i) input parameters which predetermine the model's outcome on the highway's capacity and (ii) used a LINSIG run which assumes that the bridge opens 10 times per hour. That is plainly an unreasonable assumption and the claim that the frequency of bridge opening has no effect upon the queuing at the junction cannot be verified. By contrast, the applicants' assessment uses the longest bridge opening time observed discernible from all of the mass of survey and data available relating to a 15 year period and makes appropriately realistic assumptions about the frequency of bridge opening.
- 6.13 Further still, GAG's assessment of the junction performance at Lady Lane/Oakwood Drive and Lady Lane/Park Road in emergency operations, in

addition to making the inappropriate assumptions on base traffic levels and growth which have already been referred to, distributes far too much traffic through those junctions, as the applicants drew out in cross-examination. Having agreed that the assumption that led to that distribution was "*preposterous*" GAG surprisingly asserted that "*significant weight*" could nevertheless be attached to the modelling. Such a contention does not assist the credibility of GAG's evidence.

- 6.14 On trip rates, GAG criticises the use of average trip rates rather than 85<sup>th</sup> percentiles. However, as the applicants' rebuttal evidence shows, the use of 85<sup>th</sup> percentile rates makes no significant difference to overall outcomes. The SoS and the 2012 Inspector agreed that average trip rates were appropriate to use in this case and GAG has given no good reason why that approach should not hold good here. GAG attacks the lpa, for being "*erratic*" and "*inconsistent*" in using different rates for different proposals on different sites. But that is exactly what GAG's highways witness does. GAG's actually volunteered in evidence in chief, before a single question had been put in cross-examination, that he uses averages, 85<sup>th</sup> percentiles and locally-derived trip rates as appropriate, based on case-specific judgments. It is not immediately clear why, when GAG's witness uses different rates on different sites he is acting responsibly and flexibly as circumstances require, but when the lpa do so that is to be condemned as erratic or incompetent. The only sensible conclusion can be that GAG's witness was indulging in advocacy, not evidence, when he made such a claim. When tackled on the point by the applicants, GAG said that the point was not about the lpa's inconsistency, but about the need for a robust assessment. That answer just cannot stand alongside what was actually said in the proof. Document 85, paragraph 3.20 expressly links the allegation of erratic behaviour to the choice of trip rates.
- 6.15 GAG also adopts an unrealistic and extreme position on lawful uses. The point was brought up in relation to the 3 sites which were formerly commitments but in respect of which planning permissions have now lapsed: the former Bradford and Bingley HQ, Coolgardie and the Church of Christ the King (Doc 51 page 73 Table 9 Rows 2, 3 and 5).
- 6.16 There is no evidence to show that any material amount of traffic generation has been omitted by removing the commitments: the buildings on the Bradford and Bingley HQ and Coolgardie sites have been demolished and have nil uses. The third site is a small church which, even if its dereliction can be tackled without the need for planning permission, would not appear to be a major generator of peak hour traffic. The lpa's evidence to this effect was not challenged. GAG's point has far greater ramifications. The point, if it has merit, would not be limited to the case of sites with lapsed permissions but lawful uses. It appears to be a point which applies to underused sites too. If so, then that opens up a situation where GAG's logic takes it to the point of having to say that under-performing shops or unlet office space needs assessing throughout the TA area and adjustments to base flows made accordingly. That is another demonstration of how unrealistically extreme GAG's position, and the logic of it, really is. Indeed, GAG goes so far as to say that to omit consideration of the lawful uses made the figures in the TA "*meaningless*". This point too does not assist the credibility of GAG's highways evidence.

- 6.17 The lpa does not accept that conditions on Micklethwaite Lane in normal operations would be unacceptable. The proposed junction design at its junction with Keithley Road is acceptable, an assessment assuming that the pedestrian crossing is generally called on alternative cycles is reasonable and there is no need to provide "Walk with Traffic" timings for the pedestrian phases. If there were, the appropriate infrastructure can be provided and the junction would work satisfactorily with the appropriate timings in place. There is adequate provision for the turning of large vehicles left into Micklethwaite Lane and if it were to be the case that a large vehicle was somehow delayed from heading north-east, then its driver would have the forward visibility to appreciate that that was the case and could wait to proceed. Even if the vehicle ended up being stationary on the pedestrian crossing, then such a situation would be short lived, the crossing would be showing red to pedestrians anyway and there is no reasonable mechanism at play which could lead to pedestrian/vehicle conflict. Despite GAG's assertions the lpa considers that there is adequate width on Micklethwaite Lane for vehicles to pass each other even allowing for parked cars and that gaps in parked cars could, in any event, be used for vehicles to assist with allowing others to pass (Doc 55 App U).
- 6.18 The application site is appropriately accessible to non-car modes of travel, for the reasons given by the applicants and as found by the 2012 Inspector and the SoS. There is no reason to form a different view now.
- 6.19 The dispute about the ability to use Oakwood Drive to access the site has been resolved as far as GAG is concerned. That has been the result of the consideration of the documents which accompanied the Joint Statement on the use of Oakwood Drive (Doc 46). The change of position by GAG must imply that it accepts that it can no longer rely upon the 2 Counsel's opinions (Doc 47).
- 6.20 Document 46, Appendix A contains a whole series of documents entitled "Final Certificate of Completion and Adoption" and each describes the lengths of highway adopted and appends a plan. Together, they contain certificates relating to the whole of the length of Oakwood Drive, but the part upon which particular attention has been focussed is the length closest to the application site boundary. Within that bundle is a Final Certificate dated 22 April 1988, which certifies the adoption of 201m of Oakwood Drive from *"its connection with the already adopted section of Oakwood Drive in a northerly direction to its termination with the site boundary"*. Drawing 413/93959/A dated April 1988 follows the certificate and is headed "Adoption of New Estate Roads Oakwood Drive, Bingley". This records the adoption of the carriageway of the end of Oakwood Drive furthest from Lady Lane in grey, the adoption of the eastern footway in yellow and brown including the adoption of visibility splays. The area across the end of the carriageway at the boundary with the application site is shown as shaded yellow. There is no gap between the yellow area and the application site. The certificate dated 7 January 1994, accompanying drawing T/66001/93959/A dated January 1994 shows that the extent of the western footway continues to the application site boundary. The applicants' Drawing No. 8450/020 attached to the joint statement is accepted by the lpa to be a proper interpretation of the adoption documents (Doc 46 Appendix B).

- 6.21 It is of no consequence that the original agreement under what is now S38 of the Highways Act 1980, formerly S40 of the Highways Act 1959, has not been found. At one stage the lpa wrote a letter saying that the developer did not enter into an adoption agreement, but that cannot be right. The certificates all state that the streets have been inspected, that the HA's requirements have been complied with, that the streets have been put in proper repair and maintained for the requisite period and, crucially: *"are hereby declared to be adopted as a Highway/s maintainable at the public expense."*
- 6.22 The whole purpose of the certificate is to certify adoption of the ways as publicly maintainable highways. To point to the lack of the agreement is to ignore the existence, purpose and effect of the certificates. Further, although adoption has to take place pursuant to some statutory process, either adoption by agreement or some other means, the law will presume that public acts are done with appropriate authority unless the contrary is proved: the so-called "presumption of regularity". Here, the evidence of the certificates is strong evidence that the lpa was going through the appropriate process for adoption. As adoption of a highway imposes the significant duty on the lpa to maintain the highway, it can be inferred that this would not be done lightly.
- 6.23 Nor does it matter that the carriageway does not extend to the boundary. The 1988 certificate plan clearly shows that the highway was adopted up to the site boundary and, in any event, the site inspection will show that there is a retaining structure beyond the carriageway and up to the boundary. As the retaining structure supports the highway, the HA will be under a duty to keep it in repair as part of the adopted highway.
- 6.24 Whilst not part of the application, the applicants agree to fund the provision of a pedestrian footbridge across the Leeds Liverpool Canal at the end of Canal Road or, if the bridge is not provided, to fund bus service improvements if that is found to be necessary to make the development acceptable in planning terms. The lpa's case is that a footbridge is required in order to provide the appropriate level of pedestrian accessibility from part of the application site to local facilities. A condition could be imposed to secure the bridge's provision, as the 2012 Inspector recommended. The S106 Obligation would provide sufficient funding for the provision of the bridge and positive discussions have taken place with the lpa and the CRT. Both the CRT and the lpa support the proposed bridge and its location. The recent letter signed by the applicants and ABC shows that the club would not stand in the way of the provision of such a bridge (Doc 30). Although the bridge does not have planning permission, there is no reason to think that planning permission would not be forthcoming, and GAG suggests none. Rather, it is GAG's case is to point to the lack of guarantee or certainty of the bridge provision. That is to apply the wrong test. The risk of the appeal scheme going ahead without the provision of the bridge can be avoided by the imposition of a Grampian condition, and such a condition can properly be imposed if there is some prospect of the condition being discharged. That test is met in this case.

- 6.25 GAG comments on the effect of a new bridge on the character and appearance of the Leeds Liverpool Canal CA. Despite disavowing any expertise or desire to give evidence on the point GAG's witness does just that (Doc 82). There it is assumed that the bridge will impact upon the CA and impact is equated with harm. That is the wrong approach, especially when one recalls that the effect of development in a CA has to be tested by reference to its effect upon the character and appearance of the CA "*as a whole*". There is no reason to conclude that the absence of planning permission for a replacement bridge should lead to this application being dismissed now any more than there was in 2012. Indeed, this inquiry has much more material before it about the provision of the bridge, in terms of design, funding and stakeholder opinion than did the 2012 Inspector.
- 6.26 On the evidence, the lpa submits that there is no reason to withhold planning permission from the application scheme on highway capacity or safety grounds or on accessibility grounds.
- 6.27 On the nature and extent of heritage impacts, there is common ground between the lpa and the applicants and the lpa accepts the applicants' assessment (Doc 57). All of the HAs affected, both designated and undesignated, would undergo harm, albeit at the top end of less than substantial harm as far as Laythorpe Farmhouse is concerned. That is common ground with GAG too. As such, paragraph 134 of the Framework is engaged and the public benefits of the proposal should be weighed against the harm to the HAs.
- 6.28 It is accepted that the paragraph 134 test has to be applied bearing in mind the requirements of S66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as explained in recent case law; the terms of the test are common ground. One has to attach considerable importance and weight to comply with the statutory duty and not merely treat it as a material consideration like any other. There is a strong presumption against causing harm to designated HAs and the setting of an asset which is a LB. Although the SoS did not use the language of the Barnwell Manor case in his decision letter, it is clear that the SoS was aware of the existence and effect of the tests in S66 and 72 of the 1990 Act from the way he expressed himself in the last decision. There is no reason to think that the role that heritage matters played in the overall planning balance should be different now than in the last decision.
- 6.29 The effects of the scheme upon the relevant HAs are set out in the SoCG specific to heritage issues. GAG sought through cross-examination<sup>30</sup> by reference to the SoCG to seek to put distance between the lpa's and the applicants' evidence, given that some of the conclusions of the applicants' witness on heritage matters are different from what is in the General SoCG. However, that line of attack totally overlooked the existence of the later SOoG, which specifically deals with that point and clearly says that it has differences on some points with what is set out in the general SoCG and that the later SoCG supersedes the earlier, where there are differences. The lpa

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<sup>30</sup> X-Examination of Mrs Tiplady.

- and applicant are still in agreement and the earlier SoCG has been overtaken by events.
- 6.30 Further, GAG takes a point about the views in the general SoCG as compared with the conclusions of the 2012 Inspector and with which the SoS agreed. The same point applies, but it is also relevant to note that, so far as the resolved position of the lpa is concerned, that was reached on the basis of being given perfectly accurate advice as to what the 2012 Inspector and the SoS concluded in the last decision (CD 4 paragraphs 57 and 58).
- 6.31 There is a broad range of agreement between the parties as to the HAs which would be affected, the impact they would undergo and that such impact engages paragraph 134 of the Framework and not paragraph 133. The application of the Framework guidance means that the RUDP policies relating to LBs and CAs are out of date, because they presume against any harm and do not contain a balancing exercise of the type set out in the Framework.
- 6.32 The position of GAG at this inquiry as regards the relevance of the past allocation of the site has changed since the last occasion. Formerly, they argued that the former allocation was not even material and should attract no weight. GAG now agrees that the previous allocation is material and deserves some weight. That must be right. The allocation lapsed not because the lpa wanted it to or because the lpa thought that allocation no longer appropriate or fit for purpose, but by mistake.
- 6.33 In proposals for the Shipley Constituency of the RUDP the application site was identified as being part an allocated housing site under Policies H2 and H4. The Planning and Compulsory Purchase Act (the Act) reformed the English planning system in September 2004. The RUDP was replaced by a range of documents that will form the Bradford District Local Development Framework (LDF). Under the transitional arrangements relating to the Act, unless expressly replaced by a new policy, old UDP policies are saved for 3 years from which is the later of: the date of commencement of S38 of the Act on 28 September 2004 or the date the plan was adopted or approved.
- 6.34 The RUDP was adopted in October 2005 and under the second provision of the transitional arrangements, the policies of the RUDP were automatically saved until October 2008 without recourse to the SoS. However, the lpa was required to submit a formal request to the SoS 6 months before the expiration of the relevant 3 year period to save policies further. The DCLG published a protocol for the saving of policies in August 2006. This set out broad principles to follow in making a request and the criteria against which any request would be assessed by the relevant government office. In January 2007, the DCLG published a template for making submissions to the SoS based on the criteria in the protocol.
- 6.35 The lpa needed to demonstrate that the policies they wished to be saved reflected the principles of LDFs and national policy in place at that time. Officers in consultation with the Government Office Yorkshire and the Humber (GOYH) completed the above template using the DCLG guidance. A key element of the DCLG guidance made clear the need for particular regard to be paid to policies that supported housing, including unimplemented site allocations. This was an explicit consideration of an April 2008 report to the

Executive Committee. This set out the reason for the non-saving of Policies H1 and H2 which were seen principally as phasing policies and the conclusion that the unimplemented housing allocations would continue to be protected under Policy H4 as proposed to be saved.

- 6.36 The lpa resolved to submit for saving the policies set out into the report for consideration by the SoS. To this end a formal application was made to the SoS on 21 May 2008. A direction was issued by the SoS on 30 September 2008 which listed those policies to be saved. Those policies not listed in the Direction would expire on 31 October 2008. In line with the lpa submission Policy H4 was saved while Policies H1 and H2 were left to expire.
- 6.37 In relation to an ongoing development proposal on a site allocated as a Phase 2 housing site, a submission was received from a local resident which challenged the legal basis for the saving of unimplemented housing allocations in the RUDP. The basis of the submission was that Policies H1 and H2 allocated the sites as well as dealing with their phasing, whereas Policy H4 did not allocate sites but rather protected them. The lpa subsequently obtained Counsel's opinion which concurred with this view.
- 6.38 On 21 November 2011 the lpa resolved the following, as it affects this development site: that it was the lpa's intention that the unimplemented housing sites should be protected to meet the district's housing needs; that the extensive and robust statutory process through which the sites allocated under Policies H1 and H2 in the RUDP were subjected to and as such all the unimplemented housing sites previously allocated under Policies H1 and H2 should be accorded significant weight when considering their use for residential development; that any planning applications which related to an unimplemented housing site and which have been considered but have not had a decision notice issued be reconsidered by Regulatory and Appeals in the context of the above new legal considerations. Essentially the lpa resolved the above position in order to provide certainty to decision makers, developers and communities.
- 6.39 Despite the fact that the site is not now an allocated housing site in the RUDP, the lpa considers that it is appropriate to afford weight to the fact that the site was previously allocated as a housing site (Phase 2) and that the allocation was only removed by virtue of a genuine mistake.
- 6.40 The proposed allocation in the draft RUDP was tested at the RUDP inquiry where the lpa's stance was tested from both directions. The proposed allocation as a Phase 2 site was tested by the developers who wanted it allocated in Phase 1 and by GAG who did not want it to be allocated at all. Whilst it is right that the level of detail in the evidence then was not as it is now, the examination of the site's merits was hardly cursory, as the Inspector's report shows (CD 16). The sustainability of the site has not changed in the meantime.
- 6.41 Whilst it has not figured at all in the evidence discussed at the inquiry and has not been mentioned by GAG or any third party, mention ought to be made of the important issue of the South Pennine Moors Special Area of Conservation (SAC) and Special Protection Area (SPA), as this engages the requirements of the Habitats and Birds Directives and the domestic

Regulations transposing them. The SoS can note that it is the agreed position of the lpa and applicants, which has not been challenged by anyone, that Appropriate Assessment of the impacts of the proposal upon the SAC and SPA is not required because the risk of significant impacts upon the SPA and SAC can be ruled out because mitigation measures are available which can prevent any such effects occurring.

- 6.42 The application scheme would bring significant benefits in that it would make a large contribution towards the need for market and affordable housing. The lpa has, at best, a 2.05 year supply of deliverable housing land. The applicants say it is less. The lack of supply can properly be described as both acute in extent and chronic in duration. The lpa and applicants are right to say that more weight can be ascribed to the housing contribution now than in 2012. That is because there is a material difference between a 2.05 year supply and the 2.5 year supply that existed in 2012. The additional time during which undersupply has existed should also be borne in mind and increases the weight to be given to tackling the shortfall. GAG seeks to meet this point partly by asking whether the difference of 0.45 years' worth of supply is determinative. That is not the point. The lpa does not say that this difference is determinative, but that it is material and deserving of weight in the overall balance.
- 6.43 The lpa would ask for caution to be applied in assessing the applicants' case that the supply is much lower than 2.05 years. As the applicants and lpa ultimately agree on the question of whether the application should be permitted, it has not been possible or appropriate for the applicants' housing evidence to be challenged. The SoS ought therefore to keep in mind that the applicants' contentions on supply and, in particular, requirement, have not been fully examined or explored.
- 6.44 The lpa attaches significant weight to the contribution that the application scheme would make towards meeting needs for market and affordable housing, sustainably located at one of the area's 3 Principal Towns identified by the emerging CS. GAG very fairly stated that its concern was about the planning application and not about whether, in principle, the general location of the application site was a suitable one, in strategic terms, to locate housing development. For the lpa, tackling its housing shortage is a key consideration in deciding to support the applicants' case.
- 6.45 Each of the parties' planning witness forms their overall planning balance on the basis of the views that their colleague witnesses set out: so on highways matters GAG's witness takes his lead from GAG, the lpa's witness from that of the highway authority and the applicants' witness from their highways witness. The Inspector and the SoS will form their own views of the planning balance based on their own conclusions on the individual topic areas raised by the application. However, what is agreed is that the decision making test in this case should be that set out in Framework paragraph 14. There is no 5-year supply of housing land and so Framework paragraph 49 is engaged and that, in turn, engages paragraph 14. As the RUDP policies on transport do not reflect Framework paragraph 32 and the heritage policies do not reflect Framework paragraph 134, relevant policies in addition to those



for the supply of housing are out of date and so Framework paragraph 14 is triggered by that route too.

- 6.46 The application would bring important benefits. They are not limited to the additional housing but would extend to the economic and social benefits to which the applicants refer. There would also be scope for enhancing appreciation of the lime kiln complex next to the canal. The off-site highway works would benefit existing road users, particularly the replacement of the existing single track swing bridge with a bridge which would allow 2-way working. GAG's evidence does not establish a credible basis for objecting to the scheme on highway grounds. The scheme is deliverable, even if the lpa's case that a new footbridge is required is accepted. If that is so, then the application of Framework paragraph 14 can only sensibly produce the conclusion that, despite giving considerable importance and weight to the statutory duties in S66 and S72 of the 1990 Act, the harm that this scheme would cause to HAs would not significantly and demonstrably outweigh the scheme's benefits.
- 6.47 The lpa therefore submits that the application should be permitted.

## 7. The Case for The Greenhill Action Group

The material points are: -

### Introduction

7.1 In their support for the grant of planning permission for this development, the applicants and lpa ultimately arrive at one point, namely, that when the scheme was considered in 2012, it failed because of one problem, and now with the current application that problem has been resolved.

7.2 They are wrong for 2 reasons;

- (i) the problem with the 2012 scheme was the time taken to allow traffic through the emergency route whilst a bollard was manually lowered. The unacceptable consequence of that problem was significant traffic flows from the development following a route through Micklethwaite village for periods of an hour or more. With the current application, whilst the bollard can come down more quickly, the unacceptable consequence remains. As a result of the emergency access arrangements, which, if used, would lead to extreme queuing at junctions including Lady Lane/Park Road, and significant flows of traffic would still route through Micklethwaite village. Nothing has changed in that regard; and,
- (ii) the weight attaching to other elements of harm has increased i.e. impact on HAs, and additional elements of harm have been identified i.e. GAG's analysis of impact on the local highway network. The planning balance has materially changed since the last inquiry, and it has swung further against the grant of consent.

### Greenhill Action Group

7.3 GAG is a mature association that enjoys an extensive membership (Doc 80). It has shown resolute opposition to the applicants' plans for this site. The fact that GAG is mature and well-supported shows that there is deep-rooted local opposition to the application. That GAG's evidence has not been circulated amongst all 652 members is neither here nor there; indeed, there is no suggestion that the lpa's evidence has been circulated to all of its members. GAG's position is that the scheme should be refused planning permission.

### Consistency with Government Policies on Sustainable Transport

#### *Impacts during bridge closure for repair/maintenance.*

7.4 The SoS's 2013 decision records that; *"...even with the lower levels of traffic movement generated at other times of the day, with the swing bridge closed to traffic and the emergency access not open, the increased usage of the northern route through Micklethwaite to Otley Road would be likely to severely interfere with the free movement of road users and reduce highway safety."* (CD10 paragraph 25). That effect meant a breach of RUDP Policies TM2 and TM19A and conflict with paragraph 32 of the Framework.

7.5 The cause of the problem is set out in the 2012 Inspector's report (CD 8). The Inspector concluded that the extent of delay in implementing the

emergency access arrangements was a minimum of one hour (CD 8 paragraph 178). The Inspector considered that significant levels of traffic routing through Micklethwaite village over that period was unacceptable even though bridge closures for emergencies, repairs and maintenance might be infrequent (CD 8 paragraph 248).

- 7.6 Since the SoS's decision, the applicants have focussed their attention on devising a system whereby the period to implement the alternative access arrangements can be reduced. In coming up with a system that relies on technology, an electronic signal telling the Council's CCTV operative that there is a fault with the bridge, and the operative then lowering the bollard, they have succeeded in reducing the time taken to implement the alternative access arrangements. This is a system which itself relies on the continued working of an automated SCADA system. However, it is not clear how long the emergency arrangements would take to implement if that bit of the bridge also fails. Despite expending a considerable amount of time developing this system, the applicants and the lpa have then simply failed to produce any analysis of what happens to the local highway network once the electronic bollard has been lowered and indeed for the 8 minutes preceding its lowering when the swing bridge is closed.
- 7.7 Neither the applicants nor the lpa produces any analysis of impact on the highway network under the alternative/emergency access arrangements. In effect, and in the absence of any analysis to show what happens, they simply ask the Inspector and SoS to assume that there will be no significant flow of traffic through Micklethwaite village. In respect of determining whether or not this application has overcome what the 2012 Inspector and the SoS have already identified to be a severe consequence, in breach of local and national policy, the suggestion that we proceed on the basis of assumption, as opposed to analysis is entirely misconceived.
- 7.8 This inquiry has had no assessment from either the applicants or the lpa that shows that the junctions of Park Road/Lady Lane and Lady Lane/Oakwood Drive would operate satisfactorily under the alternative access arrangements such that significant numbers of drivers would not be tempted to take the route up through Micklethwaite village, and not just for an hour, but for however long the bridge is closed for either emergency or routine repair and maintenance. In those circumstances, and even without reference to GAG's evidence, this application should not be approved. The applicants and the lpa have simply not demonstrated that the unacceptable consequence identified by the 2012 Inspector has been overcome.
- 7.9 That drivers would be tempted to take the route up through Micklethwaite village is clear on the basis of simple geography. The development traffic affected by a bridge closure would be those vehicles wanting to head south on Micklethwaite Lane. Drivers attempting that trip in the 8 minutes period between bridge closure and lowering of the bollard would certainly exit the development up through Micklethwaite Village since there is no other available route.
- 7.10 Once the bollard is lowered, the applicants anticipate that all traffic exiting the development that had previously wanted to head south on Micklethwaite

Lane would exit through Oakwood Drive. They would know to do this either because they have received a text or e-mail, or they will have driven to the swing bridge and found it closed and presumably, having arrived at the swing bridge, would know that the closure is for something more serious than simply allowing a boat or boats to pass. Traffic which had intended to head down Micklethwaite Lane and turn right onto Keighley Road i.e. with destinations to the west, or those wanting to get onto the bypass and travel in either direction, would be faced with a choice; either join the lengthy queues at junctions including Oakwood Drive/Lady Lane and Lady Lane/Park Road or head up through Micklethwaite Village. Even drivers that had wanted to head south on Micklethwaite Lane and turn left onto Keighley Road (east) might well find the Micklethwaite village alternative an attractive one.

- 7.11 The result would be significant levels of traffic through Micklethwaite village and using the unsafe junction with Otley Road to its north. Not only is there no analysis by the applicants or the lpa of this unacceptable consequence there is no solution. Passing reference was made to a TRO restricting through traffic through Micklethwaite village. However, there is no such proposal before the inquiry, and none has been the subject of any assessment or consultation. This does not comprise a solution to the unacceptable consequence of the application, and there is no other solution advanced by either the applicants or the lpa.
- 7.12 GAG is the only party who does assess the application's impact during periods when the alternative access arrangements are operational. The results of that assessment are clear;
- queues of over 50 vehicles trying to get out of Oakwood Drive onto Lady Lane in the a.m. peak (Doc 87 paragraph 3.9);
  - queues of some 560 and 178 vehicles trying to get out of Lady Lane onto Park Road in the a.m. and p.m. peaks respectively (Doc 87, paragraph 3.17); and
  - queues of over 50 vehicles on arms of the Main Street/Park Road junctions in the a.m. and p.m. peaks (Doc 87, page 12).
- 7.13 Even if it is assumed that; (i) development flows should be lower because the average or "locally-derived" trip rate should be used instead of 85<sup>th</sup> percentile rates; (ii) base flows on the network should be lower because one should take the highest combined surveyed flow rather than the highest flow for each turning movement; and (iii) some undefined element of the diverted development traffic would turn left out of Oakwood Drive on to Lady Lane from instead of turning right, and some undefined element of diverted development traffic would turn left onto Park Road from Lady Lane, it is clear, beyond doubt, that these junctions would be overloaded when the alternative access arrangements are in place. That is particularly the case for the junction between Lady Lane and Park Road.
- 7.14 Insofar as they are not already using the Micklethwaite village route, once residents know that the above is what they would encounter when using the alternative access arrangements i.e. after their first attempt, they would exit the site using Micklethwaite village. The unacceptable consequence identified

by the SoS in the 2013 decision would become firmly entrenched and for periods of more than just an hour. Residents would use the Micklethwaite village route for as long as the bridge is closed for its emergency or routine repairs and maintenance. That was the test applied by the SoS on the last occasion, and remains the appropriate test. GAG does not suggest that the threshold of acceptability should be any residual harmful effect as suggested by RUDP Policy TM2.

#### Traffic Modelling Assumptions

- 7.15 Although the disputed assumptions make no difference to the likely outcome of the applicants' alternative access arrangements, GAG has addressed them. It is agreed that the appropriate threshold against which to measure the acceptability of traffic impacts of the application is that set out in Framework paragraph 32, namely, whether or not the residual cumulative effect of the scheme is severe. The test is a high one. The corollary of that is that if the impacts of a proposal breach the threshold, there would be serious consequences for those using the local highway network. Accordingly, in deciding whether any proposal generates a severe impact on the highway network, the assessment on which that decision is based should be shown to be robust and comprehensive.

#### *Development Trip Rates*

- 7.16 For any proposal likely to generate significant levels of traffic the primary medium through which that impact is to be assessed is a TA (RUDP Policy TM1). DCLG produced GoTA, which provides detailed guidance for the production of TAs. GAG acknowledges that GoTA was cancelled in October 2014 following the publication of PPG. PPG does not purport to be, nor is it, a detailed methodology for the production of TAs (CD 55). There is no detailed guidance equivalent to that found in GoTA on the appropriate methodology for identifying development trip rates. PPG simply refers to, *"a qualitative and quantitative description of the travel characteristics of the proposed development, including movements across all modes of transport that would result from the development and in the vicinity of the site."* (CD 55 ID 42-015-20140306). Thus, in the absence of any other detailed guidance, GoTA continues to be used by transport professionals<sup>8</sup>. It is said that GoTA informed the scoping exercise which, in turn, informed the TA. (Highways SOCG paragraph 2.3.1). The applicants confirmed<sup>31</sup> that GoTA does provide guidance that many engineers still refer to as good practice and that many highway engineers continue to use GoTA. It should be noted that GoTA was not cancelled because it was thought to be wrong.
- 7.17 Paragraph 4.62 of GoTA could not be clearer where it says that; *"If sites with comparable accessibility as well as scale and location cannot be found when using a standard database system, 85<sup>th</sup> percentile trip generation rates should be considered as a starting point for assessment of the baseline trip generation."* (Doc 86 Appendix JL2). Thus, unless the applicants can identify sites with comparable accessibility, scale and location from within the TRICS

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<sup>31</sup> X-Examination of Mrs France & Doc 54 paragraph 2.5.4).

database then they should be using 85<sup>th</sup> percentile rates as the starting point for the assessment.

- 7.18 It is clear that the applicants have not identified sites from within TRICS with; (i) comparable accessibility - nothing at all is known about the accessibility of the TRICS database sites extracted by the applicants; the filter for public transport provision was simply left blank (Doc 52 Appendix K, page 257); comparable scale – the applicants chose to select sites from the TRICS database with as few as 6 dwellings; and comparable location – the applicants chose to select sites from the TRICS database that are located in London, Northern Ireland and the Republic of Ireland.
- 7.19 As to whether or not to use 85<sup>th</sup> percentile rates as opposed to an average rate or some locally derived rate, it does not matter that GAG's 85<sup>th</sup> percentile rates are a bit lower than the applicants' 85<sup>th</sup> percentile rates. GoTA is clear, if sites of comparable accessibility, scale and location cannot be found from the database search, the starting point is 85<sup>th</sup> percentile rates. The sole reason advanced by the applicants and the lpa to depart from that approach is by reference to a locally derived trip generation rate. That locally derived rate comprises one survey day of traffic movements on Oakwood Drive in 2011 and another single survey day of Oakwood Drive in 2015.
- 7.20 There is nothing in any guidance, whether PPG, GoTA or anything else, which suggests that use of the 85<sup>th</sup> percentile rates in accordance with GoTA advice can be dispensed with because the applicants have surveyed a nearby residential estate road for 2 days in the last 5 years. Such an approach could not possibly be described as robust. The applicants' suggestion that GoTA supports such an approach is entirely wrong<sup>10</sup> (Doc 50 paragraph 5.2.2). Indeed, the applicants' highways witness makes an odd reference that in light of the Oakwood Drive surveys, "*It is, therefore, once again concluded that the use of average trip rates in the assessment of the impact of most of this particular development is appropriate as concluded by the Inspector presiding over the 2012 Public Inquiry.*" (Doc 50 paragraph 5.2.10). That sentence suggests that the use of average trip rates, as opposed to the locally derived rates, is appropriate but not in all parts of the analysis.
- 7.21 The applicants' flawed methodology is further compounded. The 2011 and 2015 single day surveys of Oakwood Drive revealed a highest hourly flow of 94 and 98 vehicles respectively in the period between 7.30 and 8.30 a.m. However, the applicant has not used that highest hourly flow in its calculation of likely development traffic flows. Instead, the analysis proceeds on the basis of picking an hourly flow from the Oakwood Drive survey relating to the period from 8 to 9 a.m. in 2011, when there were only 65 departures, and 07.45 to 08.45 a.m. in 2015, when there were only 83 departures, both of which are lower than the highest hourly flow rate surveyed. Similar differences apply to the a.m. arrivals and the p.m. peak period trips. That comprises an approach which fails to measure up to the robust standards required of transport assessment.

#### *Base Traffic Flows*

- 7.22 The applicants have conducted surveys of different parts of the existing local road network at different times over several years. Prior to surveys

conducted this year, the last of those surveys, which looked at flows at the Keighley Road/Micklethwaite Lane junction, was conducted in November 2013 (Highways SOCG)<sup>11</sup>. By chance, GAG discovered that some further traffic surveys had been conducted in May 2015. GAG eventually received some of that survey data at the end of August less than 2 weeks before submission of proofs and 2015 survey data for the Lady Lane/Park Road junction and Main Street/Park Road junction was not released to GAG until after submission of main proofs of evidence.

- 7.23 GAG's assessment of junction performance approach takes the highest turning movement from the survey results. The applicants' assessment uses one survey result for each junction and not necessarily the survey result with the highest flows. For example, although surveys in September 2015 revealed traffic flows at a higher level to those recorded in May 2015, the applicant chooses to use the May 2015 flows. That approach again reveals an absence of robustness in the applicants' assessment of impact. If the survey results show that a particular arm of a junction has actually experienced a particular flow of traffic in the recent past, then, assuming no unusual cause, and none is referred to by the applicant, it is entirely unclear why one would not have regard to that flow in assessing the impact of a proposed development. GAG has done that, the applicants have not. Again, in producing a robust assessment of impact, GAG's approach is to be preferred.

*Turning Movements When Bridge Closed for Repair/Maintenance*

- 7.24 The applicants criticise GAG for assuming that traffic re-directed through the alternative access arrangements would all turn right when it emerges onto Lady Lane from Oakwood Drive. However, there is no competing analysis produced by the applicants which suggests any particular split of traffic at that junction during operation of the alternative access arrangements. Even if it was to be assumed that some drivers would have the propensity to turn left to then make a long loop around to the north and west via East Morton to get back onto the route they had been following before being prevented from going south on Micklethwaite Lane, it is inconceivable that those drivers would not have headed up through Micklethwaite village from the development instead. If they are prepared to take the rural route, then it is fair to assume that they will take the shorter rural route.
- 7.25 The applicants criticise GAG's assumption that traffic that has been re-directed as a result of the alternative access arrangements will all turn right at the junction with Lady Lane and Park Road. As for Oakwood Drive/Lady Lane, the applicants advance no competing analysis showing any other split of re-directed traffic at the Lady Lane/Park Road junction. The split corresponds with the applicants' own assumptions about development traffic during normal day to day operations when Micklethwaite Lane is open. The applicants' modelling assumes that none of the development traffic which travels down Micklethwaite Lane, turns left onto Keighley Road, and makes it down to the Main Street/Park Road junction then turns left up Park Road. If that is right, then none of that traffic, once re-directed through the site would turn left onto Park Road from Lady Lane. Of course, that leaves development traffic which, save for the bridge closure, would have travelled down Micklethwaite Lane and turned right onto Keighley Road. However, on the

basis that that traffic wants to head west, then it is inconceivable that when using the alternative access arrangements, it would turn eastwards on Park Road from Lady Lane. Even if some of the re-directed development traffic turns left from Lady Lane onto Park Road, that junction would still be hugely overloaded causing drivers to use the Micklethwaite village route during bridge closures.

*Other Assumptions*

- 7.26 One area of dispute is the question of development traffic associated with commitments. Some planning permissions, previously considered to be commitments for the purposes of assessment of highways impact, have lapsed. Whilst GAG argues that some regard should be had to the fact that those sites might still generate traffic, it has not attributed any such traffic to them (Doc 87). GAG accepts that the sites in question are currently generating no traffic, and there is no evidence before the inquiry that they will do so in the near future.
- 7.27 GAG notes that in light of the debate over the availability of a connection with Oakwood Drive, its analysis of the day to day operation of the scheme proceeded on the basis that 440 dwellings would access the site from Micklethwaite Lane and Sty Lane. GAG accepts, for the purposes of this inquiry, that a highway connection with Oakwood Drive can be achieved. In its day to day operation, 22 dwellings within the scheme would be served by Oakwood Drive. That fact makes no material difference to the impact of the scheme on surrounding junctions, including the junction of Micklethwaite Lane and Keighley Road.

(iii) The Junction of Micklethwaite Lane and Keighley Road

- 7.28 The modelling of the Micklethwaite Lane/Keighley Road junction has now been adjusted to take into account of on street parking in marked bays on Keighley Road which limits the opportunity for 2-lane approaches to the junction, and, side road traffic associated with Canal Road and Kings Road (Doc 54 paragraph 2.5.15). Having made those adjustments, neither of which had been incorporated into the analysis presented to the 2012 inquiry, the applicants' assessment demonstrates that the junction is within 2 percentage points of practical capacity in the a.m. peak period (88.1% DOS i.e. 1.9% below the 90% level of practical capacity).
- 7.29 That outcome is achieved by assuming that the pedestrian phase of the new signals is called only every other cycle of those signals. However, there is no evidence to support that assumption. There is no survey data from either applicants or the Ipa which informs the inquiry of the frequency with which pedestrians currently cross the junction. There is no assessment of the frequency with which pedestrians would cross the junction post-development. The applicants refer anecdotally to what has been seen on occasion, suggesting that it supported an assumption of an alternative pedestrian phase. However, this was followed by contradictory anecdotal evidence which demonstrated that, even under existing levels of usage, i.e. without the scheme, schoolchildren would be crossing the junction on every cycle. Whilst the Ipa has agreed to accept the applicants' assumption, it has no better evidential basis for doing so than the applicants.



- 7.30 If the assessment is to be robust, then it must be assumed that the pedestrian phase is called every cycle. It is clear that the result of that change alone would push the junction above its practical capacity post-development. The applicants' answer was to suggest changes to the junction design so that it became a "walk with traffic" signalised junction and details of such an arrangement only emerged during the course of the inquiry (Doc 13). However, this suggestion has failings. For any pedestrian wishing to get from the post office to the bakery, the delay, in particular on the island in the middle of Keighley Road, and then waiting to cross Micklethwaite Lane, is excessive (Doc 17). Even assuming the green man appeared the minute that a pedestrian pressed the button on the south side of Keighley Road, it could take that pedestrian almost 4 minutes to negotiate the junction. Such an arrangement is unacceptably prejudicial to pedestrians, and will either put them off. In this case they may not walk to facilities, or cause them to take a risk in crossing against the red man. Either outcome is unacceptable. The eleventh-hour "walk with traffic" system is no answer to the scheme's impact on the operation of the Micklethwaite Lane/Keighley Road junction.
- 7.31 Using the signalised junction arrangement as proposed by the applicants, plugging in operation of the pedestrian phase on every signal cycle would lead to over-capacity of the junction on the applicants' own analysis, where the 85<sup>th</sup> percentile trip rates for the development are used. That outcome is enough to generate a severe impact. However, it does not stop there. The applicant assumes uninhibited space for 2 lanes of queuing vehicles coming southbound down Micklethwaite Lane. Given the parked cars at the southern end of Micklethwaite Lane e.g. customers accessing the bakers or other shops in that parade, an HGV must significantly infringe the outside of the southbound lanes. There is no intention to prevent cars parking on any part of Micklethwaite Lane where parking is currently allowed. Given there are existing commercial premises accessed from Micklethwaite Lane, and it can be expected that the numbers of delivery vehicles using Micklethwaite Lane will increase post-development there is no doubt that HGV's do access Micklethwaite Lane and will continue to do so.
- 7.32 The suggestion that in designing a new junction it is acceptable to have large commercial vehicles either coming into direct conflict with oncoming vehicles or, to avoid conflict, stopping across a pedestrian crossing, is extraordinary. Whilst the applicants have taken one step in adjusting the junction to accommodate left turning HGV's, widening the left turn lane (Doc 54), they have not taken the obvious other step, namely limiting the length of the 2-lane southbound approach on Micklethwaite Lane at the junction. GAG's swept path analysis shows that at best, one could squeeze in 1 or 2 cars into a second, outside lane. That further limits the capacity of the junction, and pushes its operation further above practical capacity post-development.
- 7.33 The excess of operation above capacity is increased again when the level of development traffic that the applicant actually thinks will go through Micklethwaite village (2.8%) as opposed to what it models (5%) is taken into account. Ignoring any interaction with the swing bridge, the development would cause the Micklethwaite Lane/Keighley Road junction to move from its current state of operating within capacity, to a position where it would operate above capacity. When possible interaction with the swing bridge is

fed into the equation, the position worsens. The applicants' analysis of queuing traffic associated with a day to day closure of the swing bridge i.e. to let a boat or boats past has northbound traffic queuing down past No. 1 Micklethwaite Lane in the p.m. peak period (Doc 51 Appendix B page 131). That level of queuing assumes; (i) development traffic calculated on the basis of the locally-derived trip rates as opposed to 85<sup>th</sup> percentile rates; (ii) a bridge closure time of 4 minutes 54 seconds (Doc 50 paragraph 6.9.8); (iii) no interference caused by vehicles parked on Micklethwaite Lane to the ability of that traffic to queue in a continuous line, and (iv) once the bridge barrier is opened all of the queued traffic disappears, i.e. no cars join the end of the queue after the bridge has opened but before all queuing cars move off.

- 7.34 There is evidence that bridge closures to allow the passage of boats can and does take longer than 4 minutes and 54 seconds. GAG's own analysis of just 2 days (7 and 8 August 2015) recorded by video surveys showed 2 occasions where on consecutive days closures of over 6 minutes occurred (Doc 91). As for the width of Micklethwaite Lane, the inquiry has been presented with a remarkable choice in the evidence. First, notwithstanding the applicants' acceptance<sup>32</sup> of the arithmetic that 3 small cars<sup>33</sup> could not be accommodated in the 6 to 6.1 metres of carriageway whilst leaving what would be considered to be acceptable space between them, it was repeated that 4.1m was referred to in MfS as sufficient to allow 2 cars to pass. Secondly, the Ipa suggested<sup>34</sup> that drivers should and would pass each other and the parked vehicles leaving a space of no more than 5cm between wing mirrors.
- 7.35 Neither position is tenable or acceptable. The fact is that Micklethwaite Lane does accommodate parked cars, whether that be 1 to 4 as observed by the applicants or 6 as observed by GAG (Doc 10), or even more as observed by an interested person (Doc 102), and that at 6 to 6.1m wide, there is insufficient width to accommodate one small parked car, together with 2 small cars moving up and down. Even if the nation's fleet of vehicles was restricted to small cars, it is clear that parked vehicles on Micklethwaite Lane would not allow uninterrupted queuing when the bridge is closed.
- 7.36 The last of applicants' assumptions, is self-evidently wrong. Traffic at the back of the queue when the barriers open would take time to move away. In that time, more vehicles would join the queue. Taking the applicants' assessment of assumptions about queuing traffic during bridge closures it extends almost to the access at the rear of the bakery (Doc 51 Appendix B page 131, Drawing No 8450-012). However, adjust any one of the assumptions and the queue gets longer. Any significant addition would mean that the back of the queue interferes with the signalised junction. The performance of that junction, already over-capacity, would be further impaired.
- 7.37 In addition to those unresolved capacity issues, the junction changes would also lead to clear conflict between vehicles accessing the forecourt in front of

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<sup>32</sup> X-Examination of Mrs France.

<sup>33</sup> Ford Fiesta at 1.98m wide, wing mirror to wing mirror.

<sup>34</sup> X-Examination of Mr Rowley.

the shops and others using the junction. Those vehicles would be emerging onto a signalised junction next to pedestrians using the crossing facility and within the left turn lane from Keighley Road to Micklethwaite Lane. Blithe assurances about that issue being designed out at some point post-grant of planning permission are not good enough. Either the applicants can show robustly at this stage that the impact of the scheme would not be severe or they cannot. The inquiry has not been shown the detail of any convincing solution to the obvious conflict which arises in that part of the junction.

- 7.38 Other undesirable effects of the junction changes to go into the balance include the loss of right turning movements associated with Kings Road. For those right turning movements, all traffic would be required to use the southern leg of Kings Road onto Keighley Road which has poor visibility. In addition, traffic attempting to turn right into or out of the forecourt in front of the post office would have to contend with queuing traffic at the new signals.

*The Junction of Main Street and Park Road*

- 7.39 The applicants' assessment models the junction of Park Road and Main Street (Doc 54 pages 19-21). In 2022, now the agreed design year, and using agreed growth factors applied to base flows, this shows that the junction operates at just over practical capacity in the a.m. peak (93.2%) and just below in the p.m. (88%). When development traffic is added in, the junction is at or around 100% capacity in the a.m. peak, whether using locally derived trip rates or 85<sup>th</sup> percentile figures, and over practical capacity in the p.m. peak again whether using locally derived trip rates or 85<sup>th</sup> percentile figures. Queuing, particularly on Main Street northbound, materially worsens.

- 7.40 That assessment assumes not one additional vehicle passes through the junction as a result of the applicants' proposed one-way system for Sty Lane. That assumption is again unrealistic. For any driver wishing to travel from Crossflatts to Greenhill the notion that they would head in the "wrong" direction" i.e. westbound to perform a long loop up through East Morton is a nonsense. Those vehicles and no doubt many others whose origins and destinations are simply unknown would not undertake the 3 or so miles of rural loop through East Morton, which is subject to a 20mph speed limit and winds through the village, but would travel the most direct route down Keighley Road which becomes Main Street, and turn left onto Park Road. As a result, the junction would not just see an increase in use as a result of development traffic, but also as a result of existing vehicles, which currently travel eastbound on Sty Lane, having to make a detour. On the applicants' own evidence, an additional element of harm is its impact on the Main Street/Park Road junction. That harm is compounded once realistic assumptions are made about the effect of the one-way system on Sty Lane.

*Effect of the One-Way System on Sustainability Interests*

- 7.41 GAG's assessment of the number of vehicles affected by the one-way system, some about 820 per day, is accepted as plausible by the applicants<sup>35</sup>. However, unlike GAG what the applicants do not do is conduct any

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<sup>35</sup> Re-Examination of Mrs France.

assessment as to the likely consequence of that effect. Assuming that those vehicles adopt the shortest deviation available, namely via the Main Street/Park Road then the additional vehicle kilometres per year as a direct result of the scheme would amount to some 900,000km (Doc 85 paragraph 3.190). If vehicles were to take the longer rural route via East Morton, that figure would be higher. Neither the number of vehicles affected nor the level of additional vehicle kilometres travelled could possibly be described as insignificant. Substantial numbers of cars would be affected. It is a factor which weighs heavily in the balance against the scheme.

#### *Access to Bus Services*

- 7.42 When considering the allocation of the application site in the draft RUDP, the Examining Inspector recorded 2 factors, amongst others, relevant to his less than ringing endorsement that, "*the land is not so inaccessible as to be unworthy of allocation for housing*" (CD16 paragraph 6.196). They were the prospect of a new footbridge and/or an intention to fund a new bus service through the site for at least 15 years (CD 16 paragraphs 6.194 & 6.197).
- 7.43 Those 2 improvements do not both form part of the current application. Now, it is either a footbridge or a bus service. A very limited period is allowed for in the S106 Agreement for the completion of the process to allow for provision of a footbridge i.e. 9 months to obtain consent for the bridge. Thereafter, the obligation to provide a footbridge falls away, and what is left is an obligation to apply the remaining money to the provision of a diverted bus service. There is no evidence of viability of such a service, and no evidence showing how long the subsidy might last in terms of actually financing a bus running through the site. Whilst there is a letter from the WYCA they are not a bus operator (Doc 27). There is no communication from a bus operator expressing a willingness to divert an existing service or provide a new service for the sum of £500,000. Any such diversion would require existing customers to undertake a significant loop in their journey and would represent a serious disruption to the journey. In addition, even if weight is given to the WYCA letter, a 3-year period of provision could have expired before all of the dwellings on the site have even been occupied. By contrast, it should be noted that the RUDP Inspector's reference to funding for a bus service for the allocated site was for at least 15 years.
- 7.44 If a footbridge is provided, then bus stops on Keighley Road would be the nearest to residents of the scheme and are recorded in the Highways SOCG<sup>36</sup> as being very accessible. However, that agreed assessment is inaccurate and was abandoned. The irrefutable position is that for the majority of residents, the nearest bus stops on Keighley Road would be beyond and for many, well beyond the IHT recognised maximum of 400m (CD 23).

#### *Conclusion as to whether the scheme is consistent with Government policies on sustainable transport.*

- 7.45 GAG's analysis shows that the application continues to generate precisely the same result which led to the refusal of planning permission on the last

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<sup>36</sup> paragraph 3.21.6

occasion, namely, a significant volume of traffic through Micklethwaite village for unacceptable periods of time during operation of the alternative access arrangements. On that basis alone, its effects are severe, as they were found to be last time, in breach of Framework paragraph 32, and inconsistent with Government policies on sustainable transport. Moreover, those harmful impacts are compounded on the basis of evidence and analysis which only now is available showing the full effects of the scheme on; (i) the operation of the Micklethwaite Lane/Keithley Road junction; (ii) the operation of the Main Street/Park Road junction; (iii) the degree to which vehicles would travel significantly further as a result proposed one-way system and the undesirably narrow southbound lane created by the building of a traffic island in the middle of Lady Lane. Added to those points is the limited access to bus services for the scheme's residents. Those additional factors simply compound the conflict with national policies on sustainable transport. The traffic impact of the scheme would be severe, crosses the threshold of unacceptability, and should, by itself, lead to a refusal of planning permission.

#### The Effect on Heritage Assets

- 7.46 On this issue, GAG is content to rely upon the findings of harm set out within the 2012 Inspector's report which were endorsed by the SoS. As for non-designated heritage assets, the position is largely the same as in 2012 save that more information is now available with regard to the stone chambers adjacent to the bridge. Although not worthy of listing, the site of the stone chambers has some significance as part of a complex illustrating canal side industry. The proposal would cause moderate harm to the significance of this non-designated HA. GAG does not depart from the finding of the SoS that harm caused to designated heritage assets is properly categorised as less than substantial thereby engaging paragraph 134 of the Framework. However, within that overall category of "less than substantial" harm there are gradations ranging from negligible to major.
- 7.47 Harm to the setting of Laythorpe Farmhouse, Grade II listed, and therefore a building of national significance is not at the lower end of the range of impacts that may be described as less than substantial as had been suggested in the SOCG (CD 3 paragraph 4.1.7(a)). Previously, the SoS found a major adverse effect on its setting (CD 10 paragraph 28). The 2012 Inspector found, "*major harm to the setting of Laythorpe Farmhouse*". Those findings are consistent with harm at the upper end of the scale within the overall category of less than substantial harm. The Supplementary SOCG on heritage issues is silent on the question of the specific level of harm caused to the setting of Laythorpe Farmhouse, as it is in respect of other designated HAs, simply referring to less than substantial harm (Doc 64 SS7).
- 7.48 The suggestion from the applicants' witness on heritage matters that his current proof's omission of reference to a major effect is a methodological one is not convincing. First, the 2012 Inspector's conclusion is that the significance of the HA would suffer major harm, as opposed to a major effect or major impact. Secondly, omitting consideration of the asset's sensitivity, which was the step taken last time by the witness in reaching his conclusion of major effect), is nonsense. The sensitivity of the Laythorpe Farmhouse has not changed in the intervening period. Third, the difference between effect

and impact is largely semantic. There is nothing before the inquiry to suggest that any change has taken place so as to justify any different finding<sup>17</sup>.

- 7.49 The same observation applies to the harm caused to the character and appearance of the Leeds Liverpool Canal CA. Whilst the applicants continue to assert only a slight adverse impact, (CD 51, paragraph 7.18), that was not the conclusion of either the 2012 Inspector or the SoS. Both found the harm to the CA would be at a moderate level (CD 8 paragraph 213 & CD 10 paragraph 28). There is nothing now to justify any different conclusion. There is certainly nothing to justify the proposition in the SOCG that the Canal CA would not be materially harmed (CD3 paragraph 4.1.7).
- 7.50 The appellant's evidence, which is entirely at odds with the SOCG contains a useful list of undesignated heritage assets that would also suffer harm at the hands of the scheme (CD 3 paragraph 4.1.7).
- 7.51 At the 2012 inquiry, the absence of a finalised design for the pedestrian footbridge counted against the scheme on the basis that its impact on the Canal CA could not be judged. Matters have moved forward with an option for an at-grade footbridge discussed with the lpa. However, it remains the case that there is no finalised design. The lpa's response does not confirm that any particular option has been selected i.e. between fixed bridge and a swing bridge, nor does it confirm that any finalised scheme, which has yet to emerge, would avoid harm to the CA (CD 60). The lpa letter, although it is equivocal as to the likely level of harm, indicates that a fixed bridge would cause harm, and is ambiguous about whether or not harm would be caused by a swing bridge. Whilst stating that a swing bridge is not considered to cause harm, it then says that impact would be slight and offset by benefits (CD 60 page 3). Accordingly, the overall actual level of any additional harm caused to CA as a result of the scheme remains unknown.
- 7.52 The consideration of impact of the scheme on designated HAs appears under the topic of impact on the character and appearance of the area in both the SoS's decision and the 2012 Inspector's report. The applicants accept<sup>37</sup> that the issue of impact on character and appearance of the area is a different and separate one to the assessment of impact on the significance of HAs. The fact that harm to designated HAs was considered under the umbrella of impact on the character and appearance of the area suggests that the decision maker has not given that harm the considerable weight and importance which the Courts have since stated must be accorded to that factor in the decision-making process (Barnwell Manor litigation). Nothing else within the analysis at paragraph 28 of the SoS's decision letter or within the 2012 Inspector's report suggests that considerable importance and weight was accorded to the harm suffered by designated HAs in accordance with later judicial authority.
- 7.53 The fact that the SoS's decision was not challenged on that basis is neither here nor there. In light of the way in which the SoS's decision Letter is expressed, as well as the 2012 Inspector's report, it is clear that, post-

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<sup>37</sup> X-Examination of Mr Brown.

Barnwell, greater weight must now attach to the levels of harm caused to designated heritage assets at the hands of the scheme.

#### Harm to the Character and Appearance of the Area

- 7.54 GAG maintains, as a matter of generality, that harm would occur simply as a result of the change from an attractive rural landscape, as perceived by members of the public and residents, to that of a substantial housing estate.

#### Scheme Benefits

- 7.55 Subject to one caveat, GAG is content to refer to, and rely upon the findings of the SoS and the 2012 Inspector. It is accepted that the scheme would deliver much-needed housing in a District unable to demonstrate a 5-year supply in accordance with Framework paragraph 47 and that contribution should be accorded substantial weight. However, the weight to be given to that factor is not materially different now to the position at the last inquiry. In 2012, the housing land supply stood at about 2.5 years, now it stands at about 2 years. No suggestion appears within report to Committee or the evidence that the change makes any material difference to the balancing exercise. A suggestion that it should only appeared in evidence-in-chief and should not be accepted. Whilst there is no doubt that the extent of shortfall can be material, no Inspector's or SoS's decision letter has been produced to suggest that a difference of 0.5-years is a material one.
- 7.56 The caveat to the benefit of housing delivery is one of timing. GAG accepts that the Oakwood Drive access is deliverable. GAG accepts that the applicants' negotiations with ABC appear to have overcome the resistance to an at-grade pedestrian swing bridge. However, the Ipa's position<sup>38</sup> remains that the provision of a footbridge is necessary to render the scheme acceptable. Notwithstanding the Ipa's comments to the contrary in the discussion on conditions, which were inconsistent with the evidence, that means imposition of a condition which prohibits occupation of dwellings until a footbridge is in place. A detailed design is to be drawn up, a planning application is to be made, and, assuming the grant of consent, the bridge is to be built. In addition, elements of ABC are to be re-located. There are inherent uncertainties in that process. Notwithstanding recent pre-application discussions, those uncertainties have not been resolved, and accordingly, no-one can say when dwellings might first be occupied.
- 7.57 As to other benefits, the scheme would deliver much-needed AH; economic benefits associated with the construction of new housing and delivery of a vehicular swing bridge of greater width than the current bridge and with a footway, albeit there is no accident record associated with the existing bridge in the context of its existing levels of use. Those benefits, along with the others referred to by the applicants, such as access for the wider public to green space within and beyond the site via the new footbridge were all advanced on the last occasion. As between then and now, there has been no material increase in the level of benefits generated by the scheme.

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<sup>38</sup> X-examinations of Mr Rowley & Mrs Tiplady.

### Accord with the Development Plan

- 7.58 RUDP Policy TM2 on highways impact imposes a low threshold of unacceptability, i.e. *any harm*. That threshold would be infringed by the scheme and it is in breach of the policy. However, GAG does not suggest that that is the determinative test. Framework paragraph 32 sets a much higher threshold of unacceptability and it is that threshold which is to be applied in this case. GAG's case is that the threshold of a residual cumulative severe level of harm is breached. The RUDP policies on the protection of HAs are out of step with the Framework insofar as they do not include provision for a balance to be struck between harm and public benefits. Whilst there is conflict with the RUDP policies, GAG adopts the Framework approach as the determinative test.

### The Planning Balance

- 7.59 The planning balance has 2 stages. The first is pursuant to Framework paragraph 134. In light of the considerable importance and weight to be given to harm to designated HAs, it is GAG's submission that such harm, major in respect of the listed Laythorpe Farmhouse, moderate, and to a degree unknown, in respect of the Canal CA, are by no means outweighed by the public benefits associated with the scheme.
- 7.60 Even if that balance fell in favour of the scheme then, applying the second test pursuant to paragraph 14 of the Framework, the aggregate of all harm significantly and demonstrably outweighs its benefits. Benefits of the scheme have not materially increased since the SoS's 2013 decision. The one element of harm sufficient in 2013 to outweigh those benefits has not changed i.e. significant traffic would still travel through Micklethwaite village for periods of an hour or longer as a result of the alternative access arrangements. On that basis alone, and in the interests of consistent decision-making, this application should be refused. When other elements of harm are added to that balance, namely, the harm to designated HAs which should now be properly given considerable importance and weight and the previously unidentified highway impacts of the scheme, it falls more heavily against the grant of planning permission.



## 8. EXTERNAL CONSULTATION RESPONSES

Yorkshire Water

- 8.1 No objections in principle and planning conditions are suggested.

Environment Agency

- 8.2 No objection subject to a planning condition limiting surface water run-off.

Canal & River Trust

- 8.3 No objection in principle subject to planning conditions to mitigate the visual and physical impact of the scheme on the integrity of the canal, its ecology, the setting of the Canal CA and nearby HAs. The CRT notes that the existing swing bridge has experienced "*numerous technical problems*" that have impeded users of the bridge and the canal and that a new bridge would be less susceptible to failure and would benefit its users.

West Yorkshire Combined Authority

- 8.4 No objection in principle. The Authority identifies improvements and adjustments that could be included within a Travel Plan/S106 Agreement.

Historic England<sup>39</sup>

- 8.5 There would be limited impact on the overall significance of the Leeds Liverpool Canal and Micklethwaite Village CAs and the nearby LBs. The scheme has the potential to have a profound effect on stretches of the Canal CA and the southern aspect of the Micklethwaite Village CA. Thus, the retention of the historic field boundaries; the delivery of the vision set out in the Design and Access Statement and careful attention being paid to design, detailing and layout would be critical to acceptably mitigating any impact.

West Yorkshire Archaeology

- 8.6 No objection in principle subject to the imposition of planning conditions.

Police Architectural Liaison Officer

- 8.7 RUDP Policy D4 and the Framework seek the creation of safe and accessible environments where crime and disorder or the fear of crime does not undermine quality of life or community cohesion. The Design and Access Statement highlights that one objective of the scheme is to create a "*...extremely permeable development*". However, this permeability is damaging to an otherwise secure development by providing offenders with an unrestricted opportunity to enter the area, offend and escape.

- 8.8 The creation of a pedestrian footpath link through to Fairfax Road would be harmful and should be deleted. The emergency access could be abused by residents and non-residents through rat-running. Regarding the replacement bridge the applicants must show it can be achieved whilst keeping 24-hour emergency vehicle access to Sty Lane and Micklethwaite Lane.

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<sup>39</sup> Formerly English Heritage

## Natural England

- 8.9 The site is beyond 400m from the South Pennine Moors Site of Special Scientific Interest (SSSI) which forms part of the South Pennine Moors Special Area of Conservation (SAC) and Special Protection Area (SPA). The emerging CS has undertaken a Habitats Regulation assessment which identifies the potential for adverse effects with respect to new housing developments in proximity to the SPA/SAC particularly in relation to urban edge effects within 400m, loss of feeding area used by SPA birds within 2.5km and recreational disturbance/tramping.
- 8.10 The site does not contain habitats that would support SPA bird populations and it is unlikely to result in urban edge effects and the loss of feeding areas. There may be the potential for recreational disturbance and/or tramping effects to occur in combination with other housing developments in the area. Appropriate measures to avoid adverse effects may be required.

## WRITTEN REPRESENTATIONS TO THE LPA

- 8.11 The substantial number of objections were counted and analysed by an interested person (Doc 93). Concerns relate to highway safety, increased congestion and delay on the surrounding highway network; harm to HAs, the amenity of the canal, the countryside and ecology. Other concerns relate to air pollution, a lack of need for development, general disturbance, inconvenience as a result of the one-way system on Sty Lane and strain on already oversubscribed local services.
- 8.12 Two letters of support for the application were submitted. These refer to the inadequacy of the existing swing bridge and Sty Lane and the benefits of the development in terms of its location and improvements to the canal.

## WRITTEN REPRESENTATIONS TO THE INQUIRY

- 8.13 These responses reiterate the various concerns referred to above and include one from Philip Davies MP for Shipley. He reiterates the concerns raised by residents about the suitability of the proposed swing bridge to accommodate modern traffic, the potential for increased congestion and the implications this would have for emergency vehicles and the loss of countryside.
- 8.14 *Mr Burke* submits that the wall at the end of Oakwood Drive is not a retaining wall and not part of the adopted highway (Doc 25). There is no evidence to show that the correct procedure has been adopted and evidence that has been provided is contradictory.
- 8.15 *Mr Clarke*, President of the Leeds Liverpool Canal Society, resubmitted comments made to the 2012 inquiry with additions (Doc 26). The bridge at the head of Canal Road would cause problems for boats of the maximum size and alterations to the channel could result in damage to boats and the structure of the canal. Narrowing of the canal could result in silting, placing an added financial burden on the CRT. The replacement pedestrian bridge and the replacement of offside canal banking with a hard edge would be inconsistent with traditional canal features and construction. Whilst such considerations might be minor, cumulatively they have an adverse effect on the character of the canal.

## 9. Representations by Interested Persons at the Inquiry

The material points are: -

- 9.1 *Mr. Meares* (Doc 89) refers to Counsel's opinion that does not support the contention that the access strip at the end of Oakwood Drive across been legally adopted by the Council. Adjoining home owners have title to some of the land up to the kerb line and are unwilling to dispose of the land. Therefore, to gain access the road would have to narrow creating a pinch point. The vertical and horizontal alignment of Oakwood Drive and Lady Lane make it unsuitable as an access to the proposed development. The introduction of a one-way system on Sty Lane and reductions in speed limits throughout the area would result in inconvenience and additional expense to existing residents. The one-way system could encourage existing and proposed development traffic to rat-run through Micklethwaite village on completely unsuitable roads.
- 9.2 *Mr Plumbe* (Doc 90) highlights Framework paragraphs 7 to 9 and 14 detailing the presumption in favour of sustainable development which has economic, social and environmental roles. In his view, this development cannot be regarded as sustainable.

### Economic Non-Sustainability

- 9.3 The one-way operation of Sty Lane, and the 4.4 miles of lower speed restrictions would cost the national and local economy some £42.1m at April 2014 prices. Such costs are contrary to the economic sustainability criteria in the Framework and contrary the Ipa's regeneration and local economic development policies.

### Other Claimed Economic Benefits by the Applicants

- 9.4 Whilst an employment benefit of 70 on-site jobs and 200 indirect jobs is claimed there is no monetary quantification of the value of those jobs. There is no recognition that should any of those jobs be secured by non-UK nationals and part or all of their wages were repatriated overseas, there would be a loss to the UK economy. Building jobs are fugitive in nature at any one location and are not sustainable jobs.
- 9.5 The AH subsidy, the New Homes Bonus and increased Council Tax revenues are transfer payments within the economy and not a benefit. The education contribution, the provision of a pedestrian footbridge, contributions for Metro Cards, VMSs; TROs and junction improvements only arise because of the development. They are a cost to the development and not a benefit. The Treasury requires assessments by public bodies to be made from a national economic perspective, not from the private perspective of the Ipa or the developer. The applicants' list of benefits shows no understanding of economics.
- 9.6 Other claimed benefits are the Habitats contribution and recreational improvements. However, when set against the huge cost of the proposed one-way system and speed limits these putative benefits would be pitifully small. The lack of real benefits demonstrates that this development runs counter to the economic sustainability requirements of the Framework.

### Planning Policy Compliance

- 9.7 The proposed development would conflict with the majority of the core planning principals set out at Framework paragraph 17 and it is non-compliant with Policies UDP4, UDP7, D7a, TM2, TM7, TM10, TM10a, TM12, TM18 and TM19a in the RUDP. There is also non-compliance with the West Yorkshire Local Transport Plan in terms of economic and carbon impacts.

### Accessibility

- 9.8 Various guidelines are referred to including those of the IHT and MfS. The DoT uses 250m as the cut-off distance for access to public transport. On that basis, almost none of the proposed built-up area would be accessible to public transport. About 66% of the developable site is over 400m from a bus stop, and about 25% of the developable site is more than 800m from the rail station. An assessment of disabled accessibility is absent from the evidence. In terms of accessibility, this not a sustainable site.

### Transport Assessment

- 9.9 A sound TA for a development involving 4.4 miles of speed restrictions and the introduction of a one-way system needs to be informed by a professional origin-destination survey. That is missing from the applicants' evidence and contributes to the case for rejecting this application. It has been claimed that the electronic sign placed facing one direction of movement along Lady Lane has reduced speeds by around 6mph and that this was significant. But this could have been purely owing to chance; no statistical test has been conducted to see if the different samples have been taken from the same or different statistical populations, and to identify what level of significance or probability could be ascribed to the results.
- 9.10 Competent traffic engineers and transport planners use the 85<sup>th</sup> percentile traffic figures from the TRICS database to be certain that their design or transport plan will handle the predicted traffic levels in 85 out of every 100 cases. The applicants' evidence gives the Oakwood Drive local average trip generation rate as the one to use (Doc 50 Table 5 page 58). Extrapolation between the 85<sup>th</sup> percentile and the 50<sup>th</sup> percentile figures in shows that the local average trip generation rates used fall in the range of the 51.9 - 56.3<sup>th</sup> percentile values depending upon whether a.m. or p.m. contexts are considered. If 56<sup>th</sup> percentile local trip generation figures are used, then in at least every 44 out of 100 cases the actual trip generation rates would be greater than those used and the junctions become more congested. The Oakwood Drive local average trip generation rates are not a prudent risk adverse basis on which to be sure the analysed junctions have sufficient capacity most of the time.
- 9.11 A junction capacity analysis is presented for the Micklethwaite Lane/Keighley Road junction for the year 2022 with Redistributed Base Traffic plus Committed Development plus Development traffic with the proposed signalisation installed (Doc 50 paragraph 6.8.26). This reports 2 a.m. peak DoS that are over 82%. 85% DoS is when the functioning of the junction starts to break down. Thus at this junction there is a 44 in 100 chance that the Dos is over 82%. It has every chance of repeatedly breaking down.

Turning to the B6265 Bradford Road/A650 Bingley Bypass roundabout there is a 44 in 100 chance that the A650 East (Arm C) leg will go well over a 85% DoS, and the whole junction would cease to function (Doc 50 paragraph 6.8.21).

- 9.12 The use of the Oakwood Drive average trip generation rates as being applicable to the proposed development makes herculean assumptions. There is no evidence provided of any socio-economic and demographic profiling of the residents of Oakwood Drive in the applicants' evidence and it is very difficult to know that any extrapolation is valid. To be sure the extrapolation of the Oakwood Drive local trip generation rates were valid one would need to know the socio-economic demographic profile of the potential residents of the proposed development. This is conjecture, not analysis, and no basis on which to expect anyone to make a recommendation to the SoS.
- 9.13 The applicants state that Oakwood Drive was an unsustainable area. Thus, the 22 additional dwellings to be accessed via Oakwood Drive would also be unsustainable. Yet it is claimed the development site is sustainable. This stance is untenable and inconsistent. The further portion of the scheme site that abuts Birchdale, Oakwood Drive, and Falcon Road would also be unsustainable. Yet the applicants say that those areas are sustainable.
- 9.14 The proposed bollard installation and operation is a prescription for critical failure. It is far too complex an arrangement, far too many people are involved, it is too technology dependent, and far too open wanton vandalism or manipulation by vested interests. The Police have higher priorities and are also under increasing pressure to reduce their personnel numbers and will not enforce violations or attend in cases of malfunction. Bradford's CCTV traffic monitoring team cannot be expected at all times to be able to attend to a bridge or bollard malfunction at Sty Lane when a police surveillance operation is underway, or there has been a major water or sewer main burst, or a traffic accident, or serious congestion across the whole of the Bradford area. Funding cuts in local government mean there is no guarantee personnel can be retained for the next 60 years to provide 24 hour/365 days a year cover. Leeds City Council already does not provide continuous staffing of its CCTV Traffic Management system.
- 9.15 Examination of the interrogation of the TRICS database by the applicants reveals that all the sites chosen for inclusion in the analysis were ones where no public transport trips were envisaged. That was probably a perfectly correct judgement as to the likely usage of public transport by any future residents of any property built on the Sty Lane site, but gives the lie to all the claims made in the applicants' evidence and Travel Plan that residents on the proposed development would use buses and trains or walk and cycle.
- 9.16 The applicants say that the Northern Franchise specified 5,900 extra spaces in the peak hours into Leeds and a reduction of crowding of rolling stock by the year 2019. However, this does not mean extra spaces on the Airedale Line; that it is left to the bidders to deliver that specification across all the many lines into Leeds. An examination of the Invitation to Tender for the Northern Franchise reveals that the only additional trains specified in Airedale were 2 more Sunday trains to Carlisle and a similar extra train to Carlisle on

- weekdays. However, this is irrelevant to the proposed development as several of these trains do not stop at Crossflatts (Doc 50 paragraph 6.10.21).
- 9.17 Crossflatts Station car park and on-street parking is full on weekdays by about 7:30 a.m. and there is no prospect of additional car parking being provided near the station. Extra carriage is not readily added to trains and longer trains would require platform lengthening at some rail stations or selective door opening. In addition, train operators are unlikely to want to incur the additional track access charges that would result from trailing another carriage around the network all day long when its capacity was required only at the peaks.
- 9.18 Shipley Station is a major constraint. To increase capacity a reinstated platform, re-signalling and re-modelling of the track layout would be required. Very little capacity remains unused on the line owing to freight paths built into the timetable to facilitate movements to quarries and Scotland. Already in the a.m. peak 2 trains into Leeds from Airedale are deemed to be overcrowded. Bingley to Leeds is 18 minutes running time, so 2 overcrowded trains mean standing occurs from Crossflatts onwards.
- 9.19 Should the pedestrian bridge not be delivered, £500,000 would be allocated to operating the diversion of a bus into the development. There is little slack in the existing timetable for local services so an additional bus would be needed. £500,000 is just enough to get a bus service to divert into this proposed development for about 5.5 years. However, local experience indicates that such a service operates for the years when it is being paid for but is immediately withdrawn once that period has ended. This proposal is a sustainable offer for up to 6 years but provides no sustainable option for the further 54 years the development might be expected to exist. Diversion of existing services would add 5-6 minutes to journeys. This is a time penalty that would deter existing users of the bus service. Services on a Sunday are infrequent and it is questionable whether new residents would use the bus.
- 9.20 At 4.8m wide the new bridge would not allow a bus and small car to pass easily. In the a.m. peak the southbound queue of vehicles would stretch over 60m north of the bridge, so any peak hour service would have very little room to pass thus restricting the ability of queuing traffic to disperse. A full size bus and a medium sized car would be unable to pass without infringing the pedestrian footways movement. The suggestion that a bus could serve this site to make it more sustainable lacks credibility and practicality.
- 9.21 Some 2% of those who use local food banks are homeless. This scheme would not alleviate homelessness as none of the properties built would be affordable by homeless people. It is fundamental to recognise for the type and cost of housing required public sector housing needs to be built. However, current Government strictures ensure practically none is being delivered. No public sector housing is being proposed for this site.
- 9.22 A great deal of the new dwellings that have been built in the past 15 or so years in Bingley have been on brownfield sites, but nearly always comprising block of flats. The upshot has been that there is an abundance of Buy to Let properties available in Bingley with plenty remaining empty at the time of writing. Buy to Let property does not facilitate the release of other property in

Bradford as it is mostly occupied by commuters to Leeds. This site would do nothing to alleviate the housing demand in Bradford. The Sty Lane site is wrongly located to meet the housing demand in Bradford. There is a need to keep the pressure up on the development of brownfield sites in central Bradford, but this will not occur if greenfield sites such as Sty Lane are approved for housing development.

- 9.23 This development would lead to the coalescence of the separate settlements of Crossflatts, Micklethwaite and Bingley. The development would be a single land use, namely housing. There is a lack of provision for employment sites, services, shops, community buildings, and a variety of other uses, so no attempt has been made to reduce the need to travel.
- 9.24 The April 2015 ruling of the Supreme Court requires Government to draw up plans to reduce the incidence of NOx emissions with effect from 31 December 2015. Whether the air quality would be affected, and what costs might be imposed on the extant population, appear to have been ignored by the applicant and by the lpa. The development clearly meets published criteria for when an air quality assessment is required. As such a full and costed Air Quality Assessment should be before the SoS.
- 9.25 Over 60 years at 30 mph total CO<sub>2</sub> emissions would be some 41,400 tonnes and at 20 mph total CO<sub>2</sub> emissions would be around 51,290 tonnes as a result of the proposed speed limit reductions. The cost of carbon emissions to the nation and to the local community of the proposed one-way system would be some £415,000 at 30 mph and £513,000 at 20 mph. Changes in the speed limits would also lead to additional CO<sub>2</sub> emissions that would not occur without the scheme.
- 9.26 For existing traffic re-assigned by the proposed one-way system or slowed by the proposed speed limit reductions, the total present value costs of NOx at 2015 prices at 20 mph are estimated to be £581,000 and at 30 mph to be £522,000. These are cost to the nation and to the local community.
- 9.27 *Mr Kunz (Doc 91)* highlights that in peak hours, both Micklethwaite Lane and Sty Lane are very busy. The closure of the bridge due to canal traffic results in some drivers turning around and seeking an alternative route. Novice boaters take longer to operate the existing bridge and in some cases vehicles queues on Micklethwaite Lane have stretched back almost to the junction with Keithley Road. Evidence to the 2012 inquiry showed that the bridge closed to traffic on average 7 times a day and on some days it closed up to 15 times. More recent observations indicate that in August 2015, the bridge was closed up to 10 times a day and in some peak periods (17:00 to 18:00 hours) the bridge was closed 7 times. In these circumstances, Micklethwaite Lane is not a suitable entrance to an estate of some 400 plus houses.
- 9.28 The modern Bradley Swing Bridge was the subject of 7 logged breakdowns in August 2014. However, there, the village it serves has 4 other exits out of the village. Here, when the bridge is closed there would be only one alternative permanent exit for traffic, that being through Micklethwaite village and Carr Lane. The 2012 Inspector found that this route was "*so substandard as to be inappropriate for a material increase in traffic, including acting as the sole egress from the greater part of the site, even on the limited*

*number of occasions that this circumstance would be likely to occur". (CD 8 paragraph 251).*

- 9.29 If there was a protracted breakdown, all 440 dwellings would exit via Oakwood Drive, an estate of some 178 dwellings. Some 600 plus vehicles would be exiting via a very difficult junction limited by the Council to 200 dwellings. The ensuing traffic chaos would be exacerbated by poor weather when the steep exit out of Oakwood Drive would be almost impassable. Making Sty Lane one-way would limit movement for existing residents creating a 2 mile detour just to access their homes. This proposal is unworkable and dangerous and should not be approved.
- 9.30 *Mr Pinchbeck (Doc 92)* submits that the swing bridge would require the use of land in his ownership rendering the application void and deficient. Works to create the bridge and in particular piling could result in physical damage to his property and nearby HAs and unacceptable disturbance to his family. The operation of the swing bridge, particularly the automatic barriers and audible warnings would result in ongoing disturbance to his use of the property. The vehicular access to Bridge Cottage is narrow and the proposed works to close off Micklethwaite Lane would make access almost impossible.
- 9.31 Mr Pinchbeck highlights the increased popularity of boating on the canal and the number of times the bridge is closed and the duration of these closures which would result in congestion and inconvenience to road users. He queried the usability of the bridge, particularly for novices and its likely reliability given that more modern bridges on this canal appear to suffer as many failures as the older Micklethwaite Bridge. He draws attention to an objection from the Police citing that they demand that 24-hour access for emergency vehicles needs to be maintained. Given the potential unreliability of the proposed bridge, failures would be unsustainable and life threatening. The proposed replacement pedestrian swing bridge at the head of Canal Road would be an inconvenience to boat users and ABC.
- 9.32 *Mr Cahill (Doc 93)* draws the SoS's attention to the volume content of the representations made against this application by the local community. The concerns are many and various and are a genuine reflection of a high level of community opposition to this scheme (Doc 93 Table 1).
- 9.33 *Mrs Fleming (Doc 94)* indicates that since the 2012 inquiry there has been the discovery of lime kiln rims in the area above and next to the stone chambers, the identification of a ramp from the canal wharf, a weighbridge base and the location of former stables with access from the towpath and ground that add to the significance of HAs. These features are, in her view, of regional significance. Whilst there are a small number of lime kilns with draw holes in the Skipton to Keithley section of the canal none have rims in such good condition and there are no kilns with chambers and ramp. These features are significant given their location within the CA, the proximity to Bingley Five Rise Locks, their accessibility, the richness of the site in heritage terms and the relationship to other historic activity in the area i.e. the wharves and mills. As with other features on the canal there is significant potential to interpret these features adding to the historic/archaeological



attraction of the canal. Whilst Historic England has declined to list these structures the more recent information could change that view (Doc 34).

- 9.34 The proposed works would result in the partial filling on the western most chamber and removal of the wall along the Micklethwaite Lane frontage. This wall has signs of earlier buildings connected to it and the line of the ramp; these features would be lost. The new swing bridge would be out of keeping with the proportions of the historic elements of buildings and area around the bridge removing the visual connection to Airedale Mills, the wharf and Bridge Cottage. This would have an adverse effect on the character and appearance of the Canal CA. Piling could damage the chambers/kilns. The remains of the weighbridge could be adversely affected. The scheme would detract from the attractive rural walk afforded by the towpath between Five Rise Locks and Micklethwaite Bridge. Given the enhanced significance of the stone chambers/kilns the adverse impact of the development needs to be accorded greater weight and the conservation and preservation of the application site.
- 9.35 *Mr Knight, Secretary of The Micklethwaite Village Society* (Doc 95) highlights that Micklethwaite Lane and Carr Lane are narrow and steep and the junction with Otley Road is difficult and dangerous. Large and long vehicles have become trapped and closed these roads for several hours. Increased traffic from the development would exacerbate these problems.
- 9.36 There are only 3 exits from Micklethwaite village, south and north along Micklethwaite Lane and east along Sty Lane. The withdrawal of the historic access for Micklethwaite residents eastwards up Sty Lane would have a major adverse impact on residents. This situation could be avoided by an appropriate design of the new Micklethwaite Lane/Sty Lane junction and the access to the development site, together with appropriate signage. However, residents' suggestions have been ignored.
- 9.37 The swing bridge would totally unsuitable to serve existing users and the proposed development. When used by larger vehicles, the bridge would be treated as a single lane. The proportion of larger vehicles, using the existing bridge is significant and increasing with the rise in home deliveries and could now include buses. The short lines of sight at both ends of the new bridge would lead to problems on the bridge itself. The proposed design would require pedestrians and push chair users along Micklethwaite Lane to cross the road before and after crossing the swing bridge, to keep to the footpaths. Users of the tow path would face considerably more traffic at the junction with Micklethwaite Lane.
- 9.38 Construction of the new bridge would take some 4 months during the winter period. This would mean that Micklethwaite village residents would have Carr Lane and Sty Lane for exit. In recent winters there have been extended periods when Sty Lane and Carr Lane were impassable owing to snow and ice and the bridge was the only access to and from Micklethwaite. With no bridge access, the impact on Micklethwaite village would be severe.
- 9.39 *Dr. Morley* (Doc 96) expressed concern not only about the safety of the existing population of north of the canal, but also the safety of around 1,800 new residents. Ambulances on calls classified as immediately life threatening and require an emergency response (Red 1 and 2 calls) have a target to

arrive at these patients within eight minutes in 75% of cases. Bingley and the application site is remote from the ambulance station, which has the third lowest score for Bradford, with a median response time of 7 minutes and 42 seconds with only 54% achieved within the NHS target of 8 minutes. The estimated maximum time from bridge closure to the emergency access opening could exceed 8 minutes. Moreover, residents about to set off or return home and all those driving in the vicinity would be unaware of the change in access, which would be a recipe for chaos.

- 9.40 Access to the site and the neighbouring area bounded by the canal, Lady Lane and Carr Lane is precarious. This situation would be worsened, especially during the lengthy period of construction, and would be vulnerable to delays and potential gridlock. If access to Greenhill Lane becomes one-way then Greenhill would, given the narrowness and steepness of local roads, be inaccessible in harsh weather or with a road closure.
- 9.41 The number of Red 1 and 2 calls for Bradford District for the 5 months to end of August this year was 8,428 with 525 Red 1 calls. For a population of around 2,500 there could be as many as 24 category Red 1 and 350 Red2 calls over a 5-year period. Residents and prospective residents have an expectation that any of the emergency services are able to arrive in time, should they or their loved ones be in peril. Allowing this development to proceed would jeopardise that expectation.
- 9.42 *Cllr. Heseltine (Doc 97)*. The proposed development would add a significant amount of traffic to already congested and dangerous local roads. The Bingley By-Pass has not resulted in material reduction in traffic rather it appears to have moved the problem of congestion further along the road network. Roads to the north of the canal are no more than country roads and could not cope with the additional traffic. The proposed swing bridge is not wide enough to cope with modern traffic and the needs of pedestrians. A replacement swing bridge is an inadequate solution that is likely to be closed to traffic for lengthy periods as canal traffic increases. Moreover, it relies on technology that is known to fail and unlike other areas there is no alternative to disperse traffic.
- 9.43 Given its location and the distances to already overloaded services, this site cannot be regarded as sustainable. Local employment opportunities are limited and shrinking. New houses on this site would result in commuting to other areas. The public transport system is already at breaking point and the use of the car is the only likely alternative. The use of this site would result in the loss of valuable open countryside and agricultural land and have an adverse effect on local HAs and the Leeds Liverpool Canal as a recreational resource.
- 9.44 *Cllr Pennington (Doc 98)*. Housing is needed but in the right place; this site is not the right place. Access from Otley Road and Carr Lane through Micklethwaite village is completely inadequate and dangerous. This stretch of the canal is very popular with boaters because it is one of the longest stretches without locks. As such there is the potential for the bridge to be closed to vehicles for considerable periods, delaying the emergency services and resulting in traffic queuing on the narrow approaches to it. There is no

- guarantee that CCTV system and the control centre would react to or be able to restore the operation of the bridge. Whilst Bingley is promoted as a Principal Town it has limited infrastructure and services that would be swamped by the proposed development.
- 9.45 *Cllr Shaw* (Doc 99) reiterated the concern expressed by others that the nature of the access to the proposed development could have an adverse effect on the ability of the emergency services to reach residents at times when the swing bridge is out of action.
- 9.46 RUDP Policy UDP1 highlights that the countryside contributes to the quality of life in Bradford and plays a part in attracting inward investment. Bingley Five-Rise Locks is a major tourist attraction and the towpath with its rural setting is widely appreciated. The application site is not a potential building site rather it is locally valued open countryside that should be retained for future generations to enjoy. Development of 440 houses would conflict with RUDP Policies NE9, BH20 and EN3. This development would place an unacceptable burden on the existing road network, schools and in particular the foul and surface water drainage system which is prone to overflowing.
- 9.47 *Mr Harding* (Doc 100) objects to the replacement of the Micklethwaite Lane bridge with another swing bridge rather than a fixed link and has concerns regarding the impact of the traffic generated by the development on the surrounding roads. The continued presence of a swing bridge would isolate the proposed development when it is open to boat traffic and unnecessarily delay residents. The swing bridge should be replaced by either a fixed bridge or a tunnel and the discounting of these alternatives has not been adequately explained. Development traffic would be tempted to use the inadequate and regularly blocked route through Micklethwaite village. Development traffic would have to use the Keithley Road/Micklethwaite Lane junction and there is considerable doubt whether this junction could cope with that traffic.
- 9.48 *Mrs Collins* (Doc 101) submits that contrary to the applicants' submissions the opening of the Bingley Bypass has not decreased the amount of that traffic using Micklethwaite Lane and Sty Lane/Greenhill Lane. Traffic has materially increased and these roads are now used as a short cut by cars and HGVs. Since the completion of the Bypass 2 developments, one on the site of the former Crossflatts Primary School, and the 28 houses on land adjoining Airedale House, which is near to the junction with Sty Lane. These developments have increased the amount of traffic using Sty Lane/Greenhill Lane. The exit from Crossflatts bypass roundabout is now one of the main arteries for feeding traffic onto Micklethwaite Lane, Sty Lane, Greenhill Lane, and Lady Lane for traffic accessing the route to Eldwick, Baildon, and Guiseley and further afield. Greenhill Lane between, Woodside and Greenhill Gate is so narrow that 2 cars cannot pass. There may not have been any recorded accidents on this lane but damage is a regular occurrence. Making Sty Lane/Greenhill Lane a one-way road would be a significant inconvenience and result in additional expense for the residents living there.
- 9.49 *Mr North* (Doc 102) considers that the proposal to prevent traffic turning right into Sty Lane would have a significant adverse effect by increasing the amount of traffic through Micklethwaite village. The suggested benefit of

one-way running on Sty Lane is for pedestrians. However, this benefit is reduced by the availability of a footpath from Greenhill Lane to Woodside. The extent of car parking on Micklethwaite varies. One recent observation identified 15 cars parked on the road. When there is parking on Micklethwaite Lane large trucks or bus would find it almost impossible to enter from Keithley Road. Airedale Mills is a HA and, whilst not directly affected, its setting would be affected by the proposed 440 houses.

- 9.50 *Mr Cook, Airedale Boat Club (Doc 103)*. The Club neither supports nor opposes this scheme rather its wishes to ensure that the interests of its members are not prejudiced by the scheme. On design and layout, whilst there is the potential for services to be closer and available to the Club, i.e. water, electric and sewerage, it has concerns regarding the impact of dense 3-storey development close to the canal and the impact this might have on the amenity of the canal. Whilst the replacement of the ageing and erratic Micklethwaite swing bridge is welcomed, the Club is disappointed that the proposal is not for a fixed bridge. A fixed bridge would remove all conflict between boat and road traffic and delays particularly to emergency traffic.
- 9.51 The existing pedestrian swing bridge is privately owned by the Club. The Club leases one sq. m of land from the CRT on the tow path side of the canal on which this bridge is founded and rotates, but the lease requires the bridge to be open to canal traffic at all times. The Club's concern is that any replacement bridge should not result in severance of the Club's facilities. The Club has met with the applicants and draft Heads of Terms have been discussed and agreed (Doc 30). The Club's position is that it does not oppose the proposal to replace the pedestrian swing bridge so long as the terms discussed are followed through.
- 9.52 *Mrs Payn, Crossflatts Village Society (Doc 104)*. The absence of an adequate buffer zone does not respect Crossflatts village as a discrete entity. The local road network could not cope with a huge increase in traffic movement. There has been no consultation regarding the cycle/pedestrian bridge at the top of Canal Road which would be detrimental to visual amenity and road safety on Canal Road. The composition of the local population and the nature of housing have not been properly considered with regard to highway safety, pollution, parking and traffic congestion during construction and afterwards. Proper consideration has not been given to overstretched public transport links, school provision and the limited parking for facilities and shops.
- 9.53 *Mrs Stead, Bradford Urban Wildlife Group (Doc 105)*. The open fields and the canal setting are important landscape considerations given the canal is a SEGI. Hedgerows within the site are species rich and are of County importance for nature conservation. The integrity of these hedges would be threatened by the development. The adverse impact and the loss of the fields would have a significant and unacceptable effect on the ability of insects, birds and butterflies to obtain food and habitat.
- 9.54 *Dr Findley, Bingley Civic Trust (Doc 106)* highlights that a substantial number of new houses have been built to the north and south of the canal. The capacity of the existing foul and surface water system is unknown and the additional development could overload the system.

- 9.55 *Mr Butler (Doc 107)* submits that the applicants have failed to adequately assess highway and traffic conditions on the road through Micklethwaite village and at the Carr Lane/Otley road junction. The roads are narrow, twisting and steep, generally making it very difficult for vehicles to pass. The Carr Lane/Otley road junction suffers from poor sight lines and steep gradients. The applicants have underestimated the implications for highway safety and freedom of movement due to the propensity of traffic to turn north from the site through Micklethwaite village onto the very sub-standard Carr Lane/Otley road junction even when the swing bridge over the canal is open to road traffic. Experience suggests that at least 10% of the generated traffic from the site would turn north on Micklethwaite Lane whereas the applicants assume that less than 5% of the traffic will turn north. Furthermore, they do not give any analysis even of a 5% north turning propensity.
- 9.56 The applicants ignore the impact upon Micklethwaite village of traffic that would be diverted due to the closure of Sty Lane to east and north bound traffic. Even with the swing bridge open to road traffic, the traffic arriving at the Carr Lane/Otley road junction increases by 226% in the a.m. period and by 184% in the p.m. period posing a major road safety hazard. There are serious implications for pedestrians north of Sty Lane due to drivers mounting the narrow footways. There would also be serious conflicts between north bound and south bound traffic in these roads.
- 9.57 When the swing bridge is closed to road traffic for an extended period and before the emergency exit is operating there would be more than an 18-fold increase in traffic arriving at the Carr Lane/Otley Road junction in the peak a.m. period and a 9-fold increase in the peak p.m. period. This would create a catastrophic situation on the roads north of the site and at the junction in terms of highway safety and restrictions on the free flow of traffic.
- 9.58 The applicants overestimate the performance of the replacement swing bridge and the associated emergency access system onto Oakwood Drive. In particular, they overestimate the speed with which the swing bridge could operate under day to day conditions, the speed with which the emergency system could be activated and the speed at which drivers could change their travel plans to divert from their accustomed routes to the Oakwood Drive access point.
- 9.59 The applicants provide little concrete evidence as to the efficacy of the combined operation of the swing bridge and of the emergency system. No account is taken of the reliability and efficacy of the control centre operating the emergency system yet this is a vital component of their traffic plan. There are 6 sources of uncertainty which, if 2 minutes were allocated to each, the minimum time between the bridge closing to road traffic to the emergency system being fully operable would be over 19 minutes, not just the few minutes that the applicants assume. During this time the catastrophic situation described above would have arisen.

## 10. Conditions & S106 Agreement

### Conditions

- 10.1 Document 24 contains the conditions agreed between the lpa and the applicant. As this is a hybrid application the list of conditions is in 2 parts i.e. those the parties consider appropriate for the outline residential part of the application and those considered appropriate for the full swing bridge replacement part.

### Outline Application – Residential Development

- 10.2 *SCs 1 and 2* are the standard time limit conditions imposed on outline planning permissions. As the development is to be phased (Doc 4), *SC 3* requires the submission of a phasing plan and for the scheme to be carried out in accordance with the approved phasing plan. Access is not a reserved matter and *SC 4* requires details of the reserved matters (appearance, landscaping, layout and scale) for each phase to be submitted and an indication that the number of dwellings (420 to 440) sought by the application can be achieved.
- 10.3 For the avoidance of doubt and in the interests of the proper planning of the area *SC 5* list the plans for which approval is sought now. *SC 6* lists those plans which were submitted as illustrative and requires that the reserved matters applications will be prepared in accordance with the principles they embody as well as those contained in the Design and Access Statement and the Landscape Strategy submitted with the application.
- 10.4 In the interests of highway safety, other than the development of dwellings off Oakwood Drive, *SC 7* prevents the development of the remainder of the site until the accesses off Micklethwaite Lane, including the replacement of the swing bridge, and Sty Lane and the temporary link have been constructed. In the interests of highway safety, *SC 8* prevents development until details of the improved junctions at Keithley Road/Micklethwaite Lane, Oakwood Drive/Lady Lane, and Sty Lane/Micklethwaite Lane have been approved by the lpa and the schemes implemented. The proposed dwellings off Oakwood Drive do not rely on the provision of the emergency access. Accordingly, in the interests of highway safety, *SC 9* restricts the development of the remainder of the site until details of the emergency access have been approved and the works implemented.
- 10.5 In the interest of the appearance of the area *SCs 10 and 11* require details tree and hedgerow protection during construction of the whole site and the boundary treatment on those phases of the development within 20m of the canal to be submitted, the works are implemented and to remove permitted development rights relating to means of enclosure in relation to those dwellings. In the interests of ecological protection, *SC12* requires the prior approval and subsequent implementation of an ecology and landscape management strategy. In the interests of protecting biodiversity, *SC 22* seeks to control external lighting within 20m of the canal.
- 10.6 Given that potential archaeological remains have been identified and the industrial associations of the Leeds Liverpool Canal *SC 13* provides for details

of a scheme and programme of archaeological work is approved and implemented prior to development commencing. *SC 14* requires details of protective fencing to be provided to protect the carved rock archaeological feature during construction.

- 10.7 In relation to *SCs 13 and 14*, an interested person requested that the condition should include provisions to ensure that the archaeological significance of the relevant assets should be interpreted, protected and preserved. In particular the stone chambers and limekiln rings should be interpreted for the general public through the provision of sign boards. In relation to the carved rock concern was expressed that once the development had been completed the rock would be exposed to public access and there was the potential for it to be vandalised. The *SC* should provide for its preservation and protection. The applicants' and the *lpa's* views were that the *SCs 13 and 14* did not need amending. The applicants recognise that the provision of public information boards would be a benefit but that this was something to be dealt with at the reserved matters stage.
- 10.8 In accordance with advice from the EA and Yorkshire Water *SCs 15 and 16* provides for the submission of details of foul and surface water drainage.
- 10.9 Given that some of the site has an industrial legacy, *SCs 17, 18 and 19* provide for the submission of details of site investigations and the remediation of potential contamination. In the interests of amenity and to avoid further pollution, *SC 20* provides for the quality control of material imported onto the site for infilling, landscaping and garden formation. To maintain the integrity of the canal *SC 21* seeks to control excavation within 10m of the canal wall/bank and to control details of repaired walls/bank.
- 10.10 In the interests of residents living conditions, *SCs 22, 23 and 24* provide for control over site operations, deliveries, dust control and hours of work. In the interests of energy conservation and reducing emissions, *SC 26* provides for electric vehicle charging points with each dwelling with a car space and charging points associated with communal parking.
- 10.11 The 2012 Inspector included within the recommended list of conditions relating to the residential scheme a condition that prevented the occupation of the dwellings until the proposed pedestrian footbridge at the head of Canal Road had been provided (*CD 8 Annex 1, Appeal A, Condition 10*). GAG considered that to ensure the accessibility of the development a similar condition should be included this time. The absence of such a condition is not, in GAG's view, made good by the provisions of the *S106 Agreement* regarding the pedestrian footbridge. The applicants' *lpa's* position was that that if a pedestrian footbridge was considered essential to ensure the accessibility of the site then a condition requiring its provision was necessary.

#### Full Application – Replacement Swing Bridge

- 10.12 *SC 27* is the standard time limit imposed on pull permissions. For the avoidance of doubt and in the interests of the proper planning of the area, *SC 28* lists the plans for which approval is sought. To ensure the provision of an alternative pedestrian route during construction, *SC 29* provides for the installation of a temporary footbridge over the canal at Micklethwaite Lane.

- 10.13 In the interests of the appearance of the area, *SC30* provides for the submission of full details of the bridge, finishing materials and surface treatments. In the interests of ecology and biodiversity *SCs 31, 32 and 39* provide for control over lighting and a checking survey for otters and a survey and mitigation scheme in relation to white clawed crayfish.
- 10.14 *SC 33* provides for a scheme of archaeological and programme of archaeological work on the stone chambers and details of the proposed foundation for the swing bridge. An interested person expressed concern that it appeared that this condition only referred to the westernmost stone chamber and not the group as a whole and omitted any reference to the limekiln rings. The applicants consider that the condition as worded is sufficient to cover the archaeological interest associated with these features.
- 10.15 In the interests of the structural integrity of the canal *SC 34* seeks to control details of canal walls to be repaired, and any excavations or earthworks within 10m of the canal. In the interests of residents' living conditions, *SCs 35, 35 and 36* and provide for control over site operations, deliveries, dust control and hours of work.

#### S106 Agreement

- 10.16 A certified copy of the engrossed S106 Agreement is contained at Document 48. As with the 2012 scheme, when the British Waterways Board (BWB) was the owner of the canal, it was intended that the CRT, as the successor to BWB, would be a signatory to the Agreement. However, during recent discussions with those acting for CRT it has become clear that the Board of CRT has to formally approve and sign any Agreement and there is the potential that the signing of the Agreement may also need the approval of the SoS. Whilst CRT is willing to enter into such an Agreement the above requirements could entail significant delay (Docs 32 & 33). Thus, to provide the SoS with the comfort of a legal obligation regarding the swing bridge and pedestrian footbridge the Council would take ownership of these features and arrange the appropriate transfer at a later stage (Doc 36).
- 10.17 Documents 36 and 37 provide a summary of the contents of the Agreement. These are:
- i. That 20% of dwellings to be provided as affordable housing, a programme for delivery and occupation (Doc 48 pages 37 to 44);
  - ii. Contributions for primary education provision of £1,826.39 per dwelling to be applied to provide additional places at Eldwick School and Crossflatts Primary School and £2, 358.83 per dwelling for additional secondary places at Parkside School;
  - iii. Highways works contributions of £91,000 for the future maintenance of the signalisation of the Keithley Road/Micklethwaite Lane junction, £100,000 for 3 Variable Messaging Signs to advise that the swing bridge diversion is in operation £37,000 for traffic calming works; £22,000 for a Bridge Direct System; £835 per dwelling up to a maximum of £375,342 for the supply of Metro Cards to occupiers;
  - iv. £133,000 off-site green-space contribution to be applied to improvement works to Crossflatts Recreation Ground;



- v. £50,000 towards mitigating potential impacts of the development on the South Pennine Moors SPA;
- vi. £500,000 to be applied to obtaining the consents for; construction off and future maintenance of the pedestrian footbridge. This contribution is subject to a fall-back position that if the Council is unable to obtain all the necessary consents required for the pedestrian footbridge then the then the £500,000 would be applied to procure the enhancement of public transport provision by the provision of a new bus service or the extension of existing services<sup>40</sup>;
- vii. £70,000 towards maintaining, repairing and replacing as necessary the highway running surface part of the swing bridge;
- viii. £7,000 to all provide for all the necessary all orders;
- ix. Swing bridge contribution sufficient for Ipa to discharge its obligation under the Swing Bridge maintenance Agreement;
- x. Payment of the Council's legal fees of £3,500;
- xi. Payment of a Monitoring Officer fee of £2,450;
- xii. Other than in relation to the development of Oakwood Drive, no development would be commenced until the works at the Micklethwaite Lane/Keithley Road junction, Oakwood Drive/Lady Lane junction; the realignment of Micklethwaite Lane for the swing bridge, a turning head on Micklethwaite Lane and works to Sty Lane and its junction with Micklethwaite Lane are complete;
- xiii. The provision of a traffic bollard to ensure that only 22 dwellings are accessed from Oakwood Drive;
- xiv. Implement and comply with the terms of a travel plan;
- xv. The provision of public open space and play space/equipment to be made available for use by the public and maintained by a management company;
- xvi. Other than for the houses off Oakwood Drive, not carry out any part of the development until the replacement swing bridge is structurally completed and operational. Following adoption of the highway carried by the swing bridge and the completion of the construction of the approach roads leading from the existing adopted highway to the swing bridge the existing bridge will be removed. A swing bridge maintenance agreement.

10.18 Document 38 is the Ipa's statement confirming compliance with the statutory tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

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<sup>40</sup> Inspector's Note. This a change to Doc 37 paragraph 4.4., which says that the fall-back position would be £400,000 plus the balance of the £100,000 to be used by the Council to obtain the necessary consents. The applicants would ensure by way of an additional payment that in the event of the necessary consents not being available that the full £500,000 would be available for enhanced bus services.

## **11. Inspector's Conclusion and Recommendation**

*The numbers in [ ] brackets refer to earlier paragraphs in this report or relevant documents.*

### **Main Considerations**

- 11.1 The matters on which the SoS wished to be informed and those identified at the Pre-Inquiry meeting as being relevant have remain unchanged by the evidence and the site visits. The relevant matters to be addressed are:
- the implications for highway safety and the free flow of traffic;
  - the effect on HAs;
  - the effect on the character and appearance of the area;
  - deliverability, with particular reference to the pedestrian bridge over the canal and the availability of Oakwood Drive for access;
  - consistency with Government policies on promoting sustainable transport and delivering a wide choice of high quality homes;
  - consistency with the development plan.

### **Previous Decision**

- 11.2 In June 2013, the SoS dismissed appeals against the refusal of 3 planning applications, which taken together comprised a proposal similar to that now before the SoS. Then, the SoS concluded:
- that the site is well located in relation to built-up areas; that there is a reasonable level of accessibility by non-car modes of transport; and, that the proposal represents a sustainable form of development. There is a significant shortfall of available housing land in Bradford, and the housing scheme would make an important contribution to addressing this situation. The economic benefits of the housing scheme, including job creation, and expenditure in the local economy, carried significant weight in the determination of the appeal;
  - given the constrained nature of Micklethwaite Lane through Micklethwaite village and Carr Lane, its use by traffic from the greater part of the residential development during the period between closure of the road and opening of the emergency access would have a severe effect on highway safety and the movement of road users;
  - that the length of time during which it would be necessary for traffic to use Micklethwaite Lane and Carr Lane as a temporary route would be at least 1 hour and on some occasions much longer. As such there were significant concerns about the consequent effect on highway safety and the movement of road users that this factor weighed significantly against the proposal;
  - that the factors in favour of the housing scheme could have outweighed the shortcomings of the proposal, but for the effect on highway safety.

Thus the adverse impact of granting permission would significantly and demonstrably outweigh the benefits;

- the replacement swing bridge would have a moderate adverse effect on the setting of Laythorpe Farmhouse and on the nearby earthworks, and a minor effect on the stone chambers on the other side of the canal. These adverse effects would be outweighed by the public benefits of a wider bridge, incorporating a footway.

11.3 Given that the application is substantially similar to that considered previously; that there has been little change in the overall policy context for consideration of the proposal and the limited basis upon which the appeals were dismissed, I agree with the applicants and the lpa that the 2013 decision and consistency in decision making are important material considerations [5.7 to 5.9].

11.4 It is important to note the difference between the lpa's position in 2012 and now [6.2]. In 2012, the lpa:

- accepted that when the replacement swing bridge would be in normal operation, the access arrangements for the scheme, up to 418 dwellings via Micklethwaite Lane and up to 22 via Oakwood Drive, would operate satisfactorily, with no unacceptable adverse consequences for highway capacity or safety;
- that in the rare cases when the replacement bridge failed in the canal open/road closed position there would be a delay of at least 1 hour until the emergency access into the site via Oakwood Drive for all traffic would be available. During that period, traffic conditions on the local highway network would be unacceptable due to the congestion caused;
- that when the emergency access was open to traffic the alternative route would not be acceptable for the volumes of traffic using it, such that unacceptable highway conditions would exist by reasons of delay in the p.m. peak period on Park Road and because of substandard geometry at the Oakwood Drive/Lady Lane junction.

11.5 The lpa's objections have been overcome and it supports the hybrid application [6.7].

### **Highway Safety & the Free Flow of Traffic**

11.6 RUDP Policy TM2 seeks to ensure that new development does not adversely affect existing and proposed transport infrastructure and that necessary improvements are put in place to overcome any adverse impacts of the proposal. This policy imposes a low threshold of unacceptability, namely "*any harm*" and as such is inconsistent with the Framework. Framework paragraph 32 sets a much higher threshold of unacceptability i.e. development should only be refused on transport grounds where the residual cumulative impacts are severe [6.11 & 7.58]. RUDP Policy TM19A says that the potential impact on traffic management and highway safety will be taken into account when considering proposals and where necessary consequential improvements will be sought.

*Trip Rates, TRICs Data, Traffic Flows and Commitments*

- 11.7 Trip Rates are a building block of a robust TA and generally derived from the TRICs database. To predict the level of traffic generated, a TA can be based on either 85<sup>th</sup> percentile trip rates, average trip rates or local trip rates. For this application and based on a TRICS data set, which GAG accepts makes no difference to the assessment of impact, the applicants, as they did in 2012, have, with the agreement of the lpa, used average trip rates [5.27]. This is on the basis that average trip rates are considered to be more realistic having regard to the location of the site and the proposals for pedestrian accessibility. Similar to their approach in 2012, GAG and other objectors submit that the TA should have been based on the 85<sup>th</sup> percentile rate. GAG and objectors refer to a DCLG/DfT publication "*Guidance on Transport Assessments*" (GOTA) as a justification for promoting the use of the 85<sup>th</sup> percentile rate [Doc 85 APP JL2].
- 11.8 The appropriateness of using average trip rates as opposed to the 85<sup>th</sup> percentile rate was extensively explored at the 2012 inquiry. Then the Inspector and the SoS concluded that: "*...the use of average trips rates ...is appropriate in this case*" [CD 8 paragraphs 167 to 172]. I have no reason to conclude that the conclusion that my colleague came to was not based on a fully informed appraisal of the traffic data.
- 11.9 In 2012, GOTA was superseded and guidance on TAs is now found in PPG<sup>41</sup>. Whilst GOTA was not superseded because of concerns with its technical efficacy and it is still a reference source for some highway engineers, the starting point for national guidance on producing a TA is PPG. PPG, amongst other things, indicates that TAs should: be proportionate to the size and scope of the proposed development; build on existing information wherever possible; be tailored to particular local circumstances and be brought forward through collaborative and ongoing working with the lpa<sup>42</sup>.
- 11.10 Whilst GOTA has been superseded, one guiding principle that has not changed is that assessments should be proportionate and realistic. This approach is necessary to ensure that any improvements are cost-effective i.e. designed to limit significant impacts but not over-engineered such that they are an unnecessary cost to the development or indeed prevent it. Here, the applicants have collaborated extensively with the lpa and highway authority, who agree that the use of average trip rates is appropriate. Had the lpa/highway authority not thought that this was an appropriate approach, it could have required, as it has done in other schemes, alternative trip rate figures [Doc 85 pages 14 to 20]. There is nothing in the evidence before me to suggest that the agreement to use average trip rates was based on anything other than a full and proper professional assessment by the lpa/highway authority [6.9].
- 11.11 The applicants have carried out sensitivity testing by identifying local trip rates based on the existing development at Oakwood Drive. This shows that whilst the local a.m. and p.m. peak trip rates are, in most instances,

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<sup>41</sup> Planning Practice Guidance ID: 42.

<sup>42</sup> Paragraph: 007 Reference ID: 42-007-20140306

marginally higher than the average a.m. and p.m. peak trip rates based on the applicant's TRICS dataset, the 85<sup>th</sup> percentile a.m. and p.m. peak trip rates are materially higher [Doc 50, page 58, Table 5]. Moreover, given the that the development would include some 20% of the dwellings being AHs, which in general generates less car borne trips, and would have better access to non-car modes of transport than the developments served by Oakwood Drive it is reasonable to assume that the existing development would have higher trips rates. Given that the differences between the average trip rates and the local trip rates are marginal, I conclude that, in determining this application, the use of average trip rates still remains appropriate.

- 11.12 Given the history of this development various traffic flow surveys have been undertaken over several years. GAG's assessment has used the highest turning movement from each of these surveys, whereas the applicant's TA uses one survey result from each junction [5.24, 6.12 & 7.23]. GAG is particularly critical that the survey results used were not necessarily the survey with the highest flows. Superficially, GAG's approach is attractive and, in my view, could be described as the "worst of the worst". However, in taking the "worst of the worst", I consider GAG's approach would result in a scenario where the traffic impacts of a development would be materially overstated and result in unnecessary and costly highway works or prevent otherwise acceptable and much needed development. Such an approach would conflict with the objectives of the Framework as a whole and particularly paragraph 32 which refers to, "*improvements ...that cost effectively limit the significant impacts of the development*". The fact that the applicants have not used a survey with the highest flows is not, in my view, a fatal flaw. I consider the traffic flows selected should be representative of conditions in the area. Determination of what is representative is something for the lpa/highway authority and an applicant to agree upon. In this case, the lpa/highway authority is content with the nature of the TA and, on the evidence before me I have no reason to disagree with that conclusion.
- 11.13 It is a basic building block of TAs that where appropriate they should reflect the likely traffic impact of committed developments. GAG's initial evidence was critical of the applicants for not including an allowance for some commitments [7.26]. However, GAG's own assessment did not attribute any traffic generation to them and it accepted that the sites identified are not currently generating traffic and there is no evidence assessment that they would do so in the near future [7.26]. Thus, that the applicants' TA omits an allowance for some potential commitments does not, in my view, detract from its robustness.

#### *Replacement Swing Bridge*

- 11.14 To address the SoS's single concern expressed in the 2013 decision, the applicants have devised an emergency response system that would be activated if the bridge failed in the road closed to traffic position [3.7 to 3.11]. This involves an automatic bollard and SCADA system linked to the swing bridge both of which would have CCTV and audio links to the CCTV control room.

- 11.15 With this system in place, the time taken to open the emergency access would be significantly shorter, than that predicted in 2012. Then, the opening time was estimated to be an hour during which time the only exit to the wider network would have been via Micklethwaite village and Carr Lane. Under the proposed system the emergency access and the exit route to the wider road network would be open within 3 to 8 minutes of a problem that could not be rectified being identified. Whilst any mechanical system however, sophisticated can break down, having reviewed all the evidence relating to the bridge, the SCADA system and the automatic bollard and given that they rely on mature and widely used/understood technology, I have no reason to conclude that this system would be prone to sustained or substantial failures.
- 11.16 The most recent assessments of the bridge operation shows that there are few closures of the bridge for barge traffic during peak hours and that this level of use has remained fairly constant since 2007 [Doc 50 Tables 1 & 2, pages 28 & 29]. In this context, the chance of the automatic bollard failing, the bridge being stuck in the road closed to traffic position and the SCADA system failing at the same time and during peak travelling hours is remote. I had the opportunity to observe the Council's CCTV room, which is manned continuously. It struck me that it is a highly professional and sophisticated operation. I have no doubt that, from time to time, the attention of the CCTV staff is required on other significant incidents. However, for the staff not to be able to react within the 3 to 8 minutes would require their attention to be diverted to major incidents that were occurring at the same time as a failure of the bridge/bollard system. Again the chances of such a combination of circumstances occurring together are, in my view, remote.
- 11.17 Coupled with the roll-out of an email/text based "Bridge Direct" notification system, which should enable those not already on their journey to otherwise delay or alter their mode of travel and the use of the VMS messaging on the approaches would ensure that traffic attempting to access the bridge at a time when it was out of action because of a breakdown would be low.
- 11.18 In terms of its normal operation, given that it is, (a) a more modern bridge and (b) the operation of the barriers would be automated means that the opening and closing of the bridge would be materially quicker, particularly when operated by single-handed boats. Currently the barriers are manually operated and drivers have to wait until a boater walks back and forwards across the bridge to close/raise the barriers. Given the bridge would be 2-lane the majority of vehicles could pass each other on the bridge allowing queues that have formed to disperse more quickly. In addition, the replacement bridge, given that it would include a dedicated pedestrian footway, would allow pedestrians to use the bridge in safety and comfort at the same time as vehicles.

*Impact of traffic movements when bridge is operating normally*

- 11.19 The proposal includes improvement works to the Keithley Road/Micklethwaite Lane signal controlled junction<sup>43</sup>; the prohibition of right-turning movements

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<sup>43</sup> Doc 51 App B, page 130 & Doc 55 Appendix T, page 234.

out of Kings Road; improvements to the Oakwood Drive/Lady Lane junction<sup>44</sup>, altering the traffic flow on Sty Lane for some 70m to the east of the development spine road/Sty Lane junction to allow for westbound traffic only<sup>45</sup> and the introduction by the highway authority of a reduction in the speed limits to 20 mph in the surrounding area<sup>46</sup>. A reduction in speed limits is a wider objective of the highway authority and is desirable and achievable in the interests of highway safety [Doc 52 Apps I & J].

*Keithley Road/Micklethwaite Lane Junction*

- 11.20 The junction would be remodelled to provide for left-turning HGVs and right and left turn lanes out of Micklethwaite Lane onto Keithley Road. GAG's submissions regarding the operation of this junction raise several issues [7.28 – 7.38]. The applicants' assessment is that with the development the Keithley Road/Micklethwaite Lane would operate with a DoS of some 88% during the a.m. peak, which is below the practical capacity of a junction i.e. 90% [5.50 & 7.28].
- 11.21 One of the assumptions the applicants base their assessment on is that the pedestrian phase of the signalised control would operate every other cycle. The lpa/highway authority has, based on its own experience, accepted this [6.17]. GAG suggests that for the assessment to be robust it should be modelled on calling the pedestrian phase every cycle. Whilst pedestrian use of the junction has not been surveyed, observation has indicated that within the a.m. peak there is a relatively short period when schoolchildren call for the crossing every cycle. This is what the applicants refer to as the "peak of the peak". Given that this would occur only during term time and is relatively concentrated to a 10 to 15 minute period, I consider that the applicants' approach is proportionate and acceptable. Whilst there is a case that a TA should be based on the worst case position, in my view, it has to be proportionate and I have seen no evidence to suggest that for the assessment of this junction to be robust it should be done on the basis that the pedestrian phase at this junction should be called every cycle. Moreover, there appears to me to be sufficient headroom within the capacity of the junction to accommodate the "peak of the peak" [5.50].
- 11.22 Given that the junction design and operation is still at an early stage and, whilst it is not proposed by either the applicants or the lpa/highway authority, there are other options to improve junction capacity and accommodate peak hours flows [Doc 13 & 5.51]. This includes the implementation of a walk-with traffic signal operation, which is not an unusual or unique approach to junction design. Whilst it would lead to pedestrians waiting at each of the arms of the junction whilst the signal phases operated, the timings do not, in my experience, appear to be excessive or that they would act as a deterrent to pedestrians or encourage unsafe crossing of Keithley Road [7.30].
- 11.23 Other issues in relation to the operation of Micklethwaite Lane relate to queuing of traffic when the bridge is closed to traffic, the impact of parked

<sup>44</sup> Doc 51 APP B, page 126.

<sup>45</sup> Doc 51 App B, page 118.

<sup>46</sup> Doc 51 Plan B, page 127.

cars on the flow of traffic and the impact of a HGV vehicle turning left into Micklethwaite Lane. Dealing with the last issue first, the suggestion is that to make the turn, an HGV would have to cross the centre line to negotiate the junction and could be impeded by traffic queuing to turn right out of Micklethwaite Lane [7.32]. In this situation, the HGV would have to stop in the left-turn lane blocking the pedestrian crossing. Whilst there is the potential for this to happen it requires several circumstances to combine occur during the peak hour such that it is, given the small proportion of HGVs that are likely to make this turn, only likely to occur occasionally. In that event, drivers of HGVs given their high driving position would have more than adequate forward visibility of approaching traffic or standing traffic. If a HGV did straddle the crossing it would happen during the red pedestrian phase [5.53]. Given that it is accepted that a junction cannot be designed for every conceivable circumstance, I consider the impact of this type of event on highway and pedestrian safety would not be unacceptable [5.52]. Similarly, concerns regarding the use of the existing dropped crossing that provides access to the shop forecourts are, in my view, overstated. This is a situation that occurs already and whilst traffic flows would increase, I consider that the subsequent detailed design of the junction that would follow through safety audits and the suggested conditions could acceptably mitigate the potential for vehicle/vehicle and/or vehicle/pedestrian conflict.

- 11.24 The implications of GAG's modelling of the number of times and duration when the bridge is closed to traffic is based on timings which do not concur with those derived from a survey of the video evidence of bridge closures showing very limited barge activity even during holiday periods during the peak hours [Doc 50 Table 1 page 28]. Similarly, evidence produced by third parties regarding the number of closures and duration has timing issues, and as such should be treated with caution [9.27 & 5.48]. What is suggested is that when the bridge is in the road closed to traffic position parking on Micklethwaite Lane and the width of the road would have an impact on the ability of cars to queue in a continuous line and when the bridge reopened flows would be restricted by the width of the road restricting/preventing 2-way flows.
- 11.25 GAG's modelling appears to me to significantly over-estimate the level of regular car parking on Micklethwaite Lane. My observations of car parking at various times before, during and after the inquiry confirmed only a limited degree of parking as highlighted by the applicants [5.45]. I have no reason to conclude that my observations were unique. With cars parked, whilst the remaining road width is narrowed and some drivers were content to wait before passing a parked car, I observed that 2-way flows of all but the largest of cars is possible. Moreover, standing to wait for a car to pass involved only momentary delay.
- 11.26 Similarly, GAG's estimation of the interaction of the Keithley Road/Micklethwaite Lane junction and the operation of the bridge is based on a model that that was run 10-times in the peak hour. The applicants and Ipa suggest that this equates to the bridge being closed to traffic 10-times in the peak hour. This would be considerably in excess of what the evidence shows and would result in queue lengths significantly longer than that based on the longest time when the bridge was closed to traffic and frequency of this event



[5.48, 6.12 & Doc 50 Table 1 page 28]. Such modelling, in my view, would not equate to a similar queue length were the model to be run once or twice in the peak hour [5.48 & 6.12]. In this context, I consider that GAG's assessment of queuing and the impact of parking on traffic flow significantly over-estimate the effect of the development and the operation of the bridge on the capacity of the junction.

- 11.27 The applicants' estimated queue length in the p.m. peak shows potential queuing from the bridge back to No. 1 Micklethwaite Lane [Doc 51 Appendix B page 131]. GAG also make the point that when the bridge reopens to traffic it will take time for the rear of the queue to start to move and there is potential for further vehicles to join the queue taking it back to and affecting the operation of the junction. In my view, this ignores the fact that 2-way flows would be possible over the new bridge and that for the majority of vehicles there is the capacity for 2-way flows on Micklethwaite Lane or that when drivers decide to stop and wait for oncoming traffic the delay is generally momentary. In these circumstances, I anticipate that the queue would disperse quicker and the impact on the Keithley Road/Micklethwaite Lane junction would not be material.
- 11.28 In light of the above, whilst the development would have an impact on the capacity of the Keithley Road/Micklethwaite Lane junction and the operation of Micklethwaite Lane south of the replacement swing bridge, the effect would not be severe so as to conflict with the guidance at Framework paragraph 32.
- Oakwood Drive/Lady Lane; Lady Lane/Park Road and Park Road/Main Street*
- 11.29 Under normal operations, the Oakwood Drive/Lady Lane junction would be remodelled to provide appropriate visibility splays and would serve an additional 22 dwellings. Other than raising concerns regarding the positioning of a traffic island uphill of the junction, GAG takes no issue with the likely operation of this junction. With the proposed installation of the VMS signs and the reduction of the speed limit to 20mph, I have no reason to dispute applicants' submission that the inclusion of the island within the junction design is not absolutely necessary [5.42]. Similarly, no issue is taken with the operation of the Lady Lane/Park Road junction [5.41 & 5.42].
- 11.30 The applicants' assessment of the Park Road/Main Street junction shows that at the design year and without development, parts of the junction would operate above practical capacity in the a.m. peak [Doc 54 page 19]. With development most of the arms would operate above practical capacity [Doc 54 pages 20 & 21]. That said, I have no reason to disagree with the applicants' submissions that the resultant queues would not be excessive and could be accommodated within the current layout [5.56 & Doc 54 pages 21 & 22].
- 11.31 GAG's view is that the applicants' assessment is based on erroneous assumptions regarding the impact of the one-way operation of Sty Lane. GAG submits that the re-routing of these journeys would have a significant impact on this junction further decreasing its efficiency [7.40]. I consider that GAG's approach to the impact on this junction has to be approached with significant caution in the light of concessions that the junction model it used was not validated, that it was based on an erroneous junction layout and the

acknowledgement that the operation of this junction would not of itself give rise to the severe impacts envisaged by Framework paragraph 32 [5.24 5.56]. In these circumstances, I consider the effect would not be so severe as to conflict with the guidance at Framework paragraph 32.

*Conclusion on the impact of traffic movements when bridge is operating normally*

- 11.32 Taking all of the above, I conclude that under normal operation of the swing bridge the development would not have an unacceptable impact on the safety and free flow of traffic on the surrounding highway network. This conclusion is consistent with that of the 2012 Inspector and the SoS in 2013 (CD 8 paragraph 183 & CD 10 paragraph 22).

*Effect on the highway network before the emergency access is in use.*

- 11.33 In the period between the failure of the bridge in the road closed to traffic position and the emergency access being opened which could be up to 8 minutes, the only exit for drivers would be through Micklethwaite village. Whilst the route through Micklethwaite village is difficult, it is not my understanding that there should be no increase in traffic through the village whatsoever [CD 8 paragraphs 181 & 191]. What the 2012 Inspector concluded was that significant traffic flows through Micklethwaite village over the period of time it took to open the emergency access i.e. about one hour would be unacceptable [7.5 & CD 8 paragraph 194].
- 11.34 The 8 minutes to the opening of the emergency access is a maximum time; the minimum time would be 3 minutes. The bridge would be monitored by a SCADA system that continuously monitors the performance of the mechanical and electrical elements of the bridge. In these circumstances, the SCADA system would identify quickly whether it was a fault that could be rectified by a simple reset or that it was something that required an engineer's intervention. In these circumstances the emergency access would be open in a time materially less than 8 minutes. Moreover, the most recent surveys of the bridge operation show that there is very limited operation of the bridge during the peak hours and particularly during the a.m. peak when the greater traffic flows would be to the south and that this level of activity has remained fairly constant since 2007 [Doc 50 Tables 2 7 2, pages 28 & 29]. In this context, the likelihood of a bridge failure during the peak hours, particularly the a.m. peak, and the likelihood of a failure coupled with a failure of the SCADA system is remote. In these circumstances, I anticipate the likely level of traffic during peak hours, and at other times when lower levels of traffic movement would be generated whose only option would be to use Micklethwaite village before the emergency access would be operational, would be small and materially less than the 5% referred to by the SoS in 2013 [5.24 (i)] such that it would not severely interfere with the free movement of road users and not reduce highway safety.

*Effect on the highway network when emergency access is in use.*

- 11.35 GAG makes 2 points. The first is that queuing traffic at the Oakwood Drive/Lady Lane and Lady Lane/Park Road junctions would result in them being severely overloaded in the peak periods resulting in significant amounts

of delay [Doc 85 paragraph 3.195 & Doc 87 paragraph 3.17]. The second point, which follows on from this, is that the excessive queuing and delay, coupled with the geography of the alternative route through East Morton would be a material deterrent to drivers. GAG suggests that these drivers would use the route through Micklethwaite village for as long as it took for the bridge to re-open and on subsequent occasions when the emergency access was in use they would take this rural route. Thus, the outcome would be the same as concluded on by the 2012 Inspector and the SoS i.e. that increased use of the route through Micklethwaite village would severely interfere with the safety and free flow of traffic and fail to comply with Framework paragraph 32 [7.14].

- 11.36 Dealing first with the geography and length of the alternative route to Otley Road and East Morton. Whilst this route, Walsh Lane and Heights Lane, would be longer, having travelled it several times and at different times of the day, I consider that, in terms of its width, vertical and horizontal alignment and visibility at the respective junctions, it is far superior to the route through Micklethwaite village. The route through the village has tight, narrow bends and significant areas of on-street parking. Thus, given that Walsh Lane and Heights Lane are better, easier and safer roads, journey times are likely to be as quick as or quicker than that through Micklethwaite village. As such I consider the alternative route would be more attractive to the diverted driver [7.10]. Similarly, for those drivers that would under normal operations turn right out of Micklethwaite Lane towards Keithley, it would, despite its length and rural nature, be superior to the alternative through Bingley town centre. The opening of the emergency access would be accompanied by the use of variable messaging signs coupled with smaller permanent signs attached to lamp columns marking the most appropriate route. In my experience the majority of drivers are more than likely to follow these instructions [3.13]. In these circumstances, I consider GAG's submission that, "*...it is fair to assume that they<sup>47</sup> will take the shorter rural route.*" i.e. Micklethwaite village, is an overstatement of the position.
- 11.37 In terms of their design, vertical and horizontal alignment, I consider the proposed Oakwood Drive/Lady Lane junction and the existing Lady Lane/Park Road junctions coupled with the reduction in speed limit to 20mph would be capable of operating safely when the emergency access is in use.
- 11.38 With the emergency access in use there would be additional queuing at the Oakwood Drive/Lady Lane junction particularly during the a.m. peak which would take the junction beyond its practical capacity. However, this has to be viewed in the context of the limited flows on Lady Lane which should enable the junction to flow relatively freely allowing traffic to disperse. In terms of queuing at the Lady Lane/Park Road junction GAG's modelling needs to be treated with caution, particularly given GAG's concession under cross-examination that the assumptions that led to its proposed distribution were preposterous [6.13].

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<sup>47</sup> Drivers.

- 11.39 In particular GAG's modelling is based on an assumption that all of the development traffic using the emergency access would turn right out of Oakwood Drive and head east. However, given that during the a.m. peak under normal circumstances the largest direction of travel from the development would be west and given my conclusions regarding the Walsh Lane and Heights Lane alternative, I would anticipate that a material amount of traffic would turn left out of Oakwood Drive thus reducing the impact on the Lady Lane/Park Road junction. Moreover, GAG's assumptions do not take any account of the rolling out of the "Bridge Direct" email/text based information system which has significant potential to result in a staggering of journeys or a modal shift. The applicants' submission that the worst delay on any one arm of the Lady Lane/Park Road junction would be some 12 minutes was not challenged by GAG [5.59]. All of these matters have to be viewed in the context that during the peak hour there are very few times when the bridge is closed to traffic and thus the potential for a breakdown to occur is small. Thus the impact on the Oakwood Drive/Lady Lane and Lady Lane/Park Road junctions is likely to be infrequent.
- 11.40 Thus, given the significant reduction in the time that it would take to open the emergency access, I consider the likely volume of traffic attempting to access the bridge at a time when it was out of action and before the emergency access opened would be low. In my view, if some or even all of this traffic used the route through Micklethwaite village it would not unacceptably interfere with the free movement of road users and reduce highway safety. Once the emergency access was open, whilst there would be some additional queuing at the Oakwood Drive/Lady Lane and Lady Lane/Park Road junctions, I view the adverse effects predicted by GAG with significant caution in that such an event would be infrequent, and they do not take into account the realistic potential for (a) use of the Walsh Lane/Heights Lane alternative route and (b) the staggering of journeys and/or modal shift as a result of the "Bridge Direct" notification system.
- 11.41 In these circumstances, I consider that the residual impacts of the development when the emergency access was brought into use would not exceed the threshold of severity envisaged by Framework paragraph 32. This finding is consistent with that of the 2012 Inspector and the SoS in 2013. Then it was concluded that the residential scheme for some 400 units would, *"not adversely affect the movement of road users and highway safety when the proposed swing bridge is closed to road traffic and the emergency access route is open"* [CD 10 paragraph 23]. For the reason given above, I fully concur with those conclusions.

*Overall Conclusion on Highway Safety and the Free Flow of Traffic*

- 11.42 I conclude that when the swing bridge is in operation or when the emergency access is in use this development would not have an unacceptable effect on the safety and free flow of traffic. The proposal to monitor the operation of the bridge and the emergency access procedures are such that the time before the opening of the emergency access would be materially reduced such that the flow of traffic that would use the route through Micklethwaite village would be low would not have an unacceptable effect on the highway safety and the free flow of traffic through the village.

## Heritage Assets

- 11.43 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have "*special regard to the desirability of preserving a LB or its setting or any features of special architectural or historic interest which it possesses*". In respect of any building or other land in a CA, S72 (1) of the same Act requires the decision maker to pay "*special attention... to the desirability of preserving or enhancing the character or appearance of that area*". With regard to S66 (1), the Courts have held that when carrying out the balancing exercise the reasons given by the decision maker must demonstrate that considerable importance and weight has been given to the statutory duty [5.74 & 5.77].
- 11.44 It is common ground that RUDP Policies BH4A, BH7 and BH10 are inconsistent with the objectives of paragraphs 133 and 134 Framework in that they presume against harm and do not allow for the balancing of harm against benefits [6.31 & 7.58]. It is common ground that these policies are out-of-date and that the guidance and tests to be applied are those set out in Section 12 of the Framework.
- 11.45 Historic England (HE) has published guidance on the setting of HAs<sup>48</sup>. Paragraph 9 of Note 3 makes it clear that setting, whilst a key element of many HAs, is not itself a HA or a heritage designation. Rather the importance of setting lies in what it contributes to the significance of the HA. Framework paragraphs 132 and 134 indicate that when considering the impact on the significance of a HA great weight should be given to its conservation. It notes that the significance of a HA can be harmed through alteration or destruction of the asset (physical harm) or development within its setting (non-physical or indirect harm). Setting is defined as the surroundings in which a HA is experienced.
- 11.46 Framework paragraph 132 says that substantial harm to a Grade II LB should be exceptional. Paragraph 133 says that where development would lead to substantial harm to the significance of a HA, permission should be refused unless that harm is necessary to achieve substantial public benefits that outweigh the harm. Paragraph 134 says that where a development would lead to less than substantial harm to significance, the harm should be weighed against the public benefits of the proposal.
- 11.47 Here, it is common ground that any harm to designated and non-designated HAs would fall within the category of less than substantial and that the paragraph 134 test is engaged i.e. the public benefits of the proposal should be weighed against the harm to HAs [5.69, 6.27 & 7.46]. The parties acknowledged that within the category of less than substantial harm there can be levels of effect from negligible to major [5.69, 6.27 & 7.46].

### *Listed Buildings*

- 11.48 Immediately adjoining the site is Laythorpe Farmhouse, a Grade II LB dating from around 1737. Originally Laythorpe Farmhouse would have had a

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<sup>48</sup> Historic Environment Good Practice Advice in Planning Note 3 March 2015

functional relationship with the surrounding agricultural land and as such the building has architectural and historic significance with the surrounding agricultural fields contributing to the significance of this LB. Given the close proximity of the LB to the site and the scale of the development, particularly that proposed to the north, east and south-east of the building, I disagree with the applicant's conclusion that the impact on the this LB would be Moderate Adverse and consider that the development would have a Major Adverse impact on the significance of this building albeit still falling within the category of less than substantial harm [Doc 57 paragraph 8.34].

- 11.49 Within 500m of the site there are: 7 LBs within Micklethwaite village and CA; 2 listed structures associated with the canal including the Bingley Five Rise Locks, a Grade I listed structure; 8 LBs to the north-east, east and south-east; one LB to the south-west beyond the railway line and one LB to the east [Doc 58 Appendix ABN1]. All of these buildings and structures are screened from the development by either dense woodland or other buildings. In these circumstances, I consider that development on the site would have no material impact on the settings or significance of these HAs.

*Leeds Liverpool Canal Conservation Area*

- 11.50 This extensive CA extends some 25km through the District and in places includes adjacent buildings, structures and open land. The scheme would have a direct impact on the CA through development affecting part of the open land and on the non-designated HAs of Micklethwaite Swing Bridge, the adjacent stone chambers and the earthworks to the south of Laythorpe Farm.
- 11.51 Although the existing swing bridge is modern it is located on the line of the historic line of original bridge. I agree with the applicants that the contribution of this bridge to the character and appearance of the CA is a neutral. Whilst the new bridge would be larger and bulkier, it would be similar in style to the existing bridge and others along the canal. The main difference would be its alignment, which would have a direct impact on part of the unmade northern bank of the canal and the wall and stone chambers to the south [2.4].
- 11.52 Whilst the enlarged and bulkier bridge would impinge on views along the canal corridor, the principal elements of the views, particularly to the north-west would remain unchanged. The works to the northern bank to support the bridge would result in the partial loss of the soft bank, a traditional canal feature [8.14]. However, the works would be of a similar character and finish to the existing hard edges of the bridge. Thus, whilst there would be change it would not result in material harm to the character or appearance of the CA.
- 11.53 The realignment of the bridge would have a direct impact on the stone chambers to the south-west and associated features. The works would result in the removal of the stone wall along the edge of the carriageway where coursing shows the line of the ramp from the tow path to ground level below. This wall would be permanently removed and replaced by an embankment and result in the partial in-filling of the westernmost stone chamber. However, this chamber is already in-filled and the remaining chambers would be retained in-situ and be the subject of archaeological investigation.

- 11.54 Since 2012 further local research has led to the unearthing of 2 lime kiln rings immediately behind the tow path and the identification of a former weighbridge at the end of the stone wall albeit it is indistinct and partially covered [9.33]. It was submitted that these discoveries increase the significance of this non-designated HA. HE, who previously declined to list the stone chambers, is aware of these finds and has reassessed their significance. Whilst HE considers the lime kiln rings are of local interest, within a national context they lack the special architectural and historic interest required to qualify for listing [Doc 34]. I have no reason to disagree with that conclusion.
- 11.55 Whilst the realignment of the bridge would result in harm to these non-designated HAs, the lime kiln rings would not be disturbed. Careful attention to detail and supervision of the piling works for the bridge should not result in any further harm. Moreover, through the archaeological investigations that would be carried out there is the potential for these features to be further understood and if thought appropriate for the provision of interpretation boards features similar to those located at Bingley Five Rise Locks [5.73]. Overall, I consider the scheme would have a Minor Adverse impact on the significance of these non-designated HAs albeit falling within the category of less than substantial harm.
- 11.56 Earthworks to the south of Laythorpe Farmhouse may be evidence of a medieval settlement. Whilst some of the feature could be retained within the proposed open space to the south of Laythorpe Farmhouse the realignment of Micklethwaite Lane would result of some of this feature being lost. This would have a Major Adverse impact on the significance of this non-designated HA albeit falling within the category of less than substantial harm.
- 11.57 A potential direct effect on the character and appearance of the CA is the replacement of ABC's pedestrian swing bridge with a larger and bulkier swing bridge to provide pedestrian and cycle access to the development. GAG highlights that at the last inquiry the absence of a finalised design for the proposed pedestrian footbridge counted against the scheme on the basis that the effect on the CA could not be assessed [7.71 & CD 8 paragraph 212]. Whilst GAG accepts that matters have moved forward it notes that there is still no finalised design and the actual level of effect is unknown [7.51].
- 11.58 Whilst there is no final design, the position at this inquiry is materially different to that in 2012 such that a realistic assessment of the potential effect of a replacement pedestrian bridge on the character and appearance of the CA can be arrived at. Further to pre-application discussions with the Ipa and discussions with the CRT and ABC, 2 things are clear [CD 60 & Docs 30 & 44]. First, an at-grade bridge is the clear preference of all parties and second, ABC has no objection in principle to the replacement of the bridge [9.51]. Views along the canal tow path are an important feature of the CA and the existing pedestrian swing bridge is a feature in and interrupts those views. However, this is by no means an unusual feature of the CA or canals in general. An indicative design for an at-grade bridge mimicking the design of similar pedestrian canal bridges was provided by the applicants for comment by the relevant parties [Doc 77 Appendix J]. Whilst wider than the existing bridge, it is of traditional design and would not look out of place on

this stretch of the canal. I consider that the provision of an at-grade pedestrian swing bridge would not materially harm the character and appearance of the setting of the Canal CA and its significance.

- 11.59 Airedale House, Airedale Mills, Bridge Cottage, Limefield Mills, Hainsworth's Boatyard and the moorings for ABC are identified by the Canal CA Assessment as key features. All of these features bar the moorings are noted by the applicants as non-designated HAs [CD 34]. In addition, the CA Assessment identifies views across the rising open fields as a feature contributing to the setting of the CA. Built development on the application site would result in a significant change to the character and appearance of this stretch of the canal. Whilst this stretch would become more urban in character the change, it would not be untypical of significant stretches of the Canal CA as a whole. The effect would be localised and the visual impact on the setting of the canal and the non-designated HAs could be mitigated by careful attention to the layout and design of the dwellings and landscape features, including the retention and replacement of stone walls.
- 11.60 Taking all these factors together, I conclude that the overall effect on the setting and character and appearance of the Canal CA would be Moderate Major, resulting in harm to its significance albeit falling within the category of less than substantial harm.

*Micklethwaite Conservation Area*

- 11.61 The CA includes most of the village and open land around it [Doc 58 Appendix ANB1]. Given the gap between the site and the CA, whilst there would be no direct impact on the CA or its setting, the effect would be to diminish the wider agricultural setting of the village. The development would have a Minor Adverse impact on the character and appearance of this CA, albeit falling within the category of less than substantial harm.

*Other Non-Designated Heritage Assets*

- 11.62 In the north-eastern corner of the site is a Carved Rock with cup and ring markings assessed as being from the Bronze Age and is of local archaeological and historic interest. The Master Plan shows the Carved Rock located within an area of proposed open space, which would allow for public access and the opportunity to provide interpretative material. In this context, the development would have a Slight Adverse impact on the significance of this non-designated HA, albeit falling within the category of less than substantial harm.
- 11.63 Just beyond the site and dating from the early 19<sup>th</sup> century is Wood Bottom House. This house is located in a prominent position and is identified as a non-designated HA of moderate architectural and historic interest. Part of the significance of this asset is its rural setting which would be diminished by the development. The development would have a Slight Adverse impact on the significance of this non-designated HA, albeit falling within the category of less than substantial harm.



### *Overall Conclusion on Heritage Impacts*

- 11.64 The application proposal would result in harm to significance ranging from minor to major, albeit falling within the category of less than substantial harm to designated and non-designated HAs and fail to preserve the character or appearance of the CAs and as such harm their significance. Accordingly, the scheme would conflict with the objectives of RUDP Policies BH4A, BH7 and BH10. However, it is common ground that these policies are inconsistent with the Framework and out-of-date and that the appropriate test to apply is that set out in Framework paragraph 134.

### **Character and Appearance**

- 11.65 The site is located within the Airedale Character Area, which has a moderate sensitivity to development [4.19 & 4.20]. More particularly, the site is within an area identified as Settlement and the land beyond Sty Lane is identified as Enclosed Pasture. Enclosed Pasture is highlighted as an important feature as a green backdrop to Bingley. RUDP Policy UDP3 seeks to ensure that the quality of the built and natural environment is maintained and where practical improved [4.1]. Policies NE3 and NE3A set out the approach to the protection of Landscape Character Areas i.e. development will be permitted where it would not adversely affect the particular character of the landscape. These policies are generally consistent with the objectives of the Framework relating to environmental protection.
- 11.66 Development would take place on rising land enclosed on 3 sides by existing development. The site is visible from Micklethwaite Lane, Sty Lane and the canal tow path and in distant views from vantage points on the western and south-western slopes of the Aire valley [CD 15 Plans 1 & 2]. Although the application is in outline, the applicants have, based on principles set out in the DAS, submitted an indicative Master Plan and a series of parameter plans to guide the development. As in 2012, the applicants have agreed a planning condition requiring that reserved matters applications are prepared in accordance with the principles set out in the DAS and the parameter plans [SC6, 10.3]. The development would take the form of distinct character areas reflecting their surroundings subdivided and linked by green corridors based on existing planting that would be reinforced [3.16].
- 11.67 In light of the above, I conclude that the development on this site would appear as a natural extension of the built-up area of Crossflatts/Bingley. Moreover with careful attention to detail the development would not appear intrusive or unacceptably affect the landscape character of this part of the Airedale Landscape Character Area. Similarly with careful attention layout, the TPO trees in the south-eastern corner of the site would not be materially affected. As such the proposal would not conflict with the objectives of RUDP Policies UDP 3, NE3 and NE3A.

### **Deliverability**

- 11.68 Several objectors assert that the land required to provide the access from Oakwood Drive does not form part of the adopted highway thereby preventing development (Doc 25). Owners on either side of the proposed access claim possessory title to parts of the land and say they have no

intention of releasing this land. The implications of these objections were considered by the 2012 Inspector who concluded that a negatively worded condition could reasonably be imposed to secure access (CD 8 paragraphs 236-238).

- 11.69 Document 46 Appendix A contains a series of documents and plans relating to the completion and adoption of the highway at Oakwood Drive. These documents, the associated measurements and their transcription on to a plan showing the full length of Oakwood Drive from its junction with Lady Lane, show that the adopted highway runs up to and includes the boundary of the site. Having regard to the "Presumption of Regularity", I agree with the lpa that the lack of a copy of the original agreement under S38 of the Highways Act 1980 and S40 of the Highways Act 1959 is not fatal to a conclusion regarding full adoption [6.21].
- 11.70 On land ownership, the implication of this is that to achieve access the road would have to be narrowed to the extent that it would not appropriately serve the proposed 22 houses. It is my understanding that land acquired by adverse possession cannot include land consisting of public highway. In these circumstances, I agree with the conclusion of the 2012 Inspector that these submissions would not be an impediment to the provision of an appropriate access.
- 11.71 In light of the above, I concluded that on the matter of adoption and landownership there are no impediments that would prevent vehicular access being achieved off Oakwood Drive. Moreover, in the light of the information provided, I consider it is unnecessary to consider the imposition of a negatively worded condition as suggested by my colleague in 2012.
- 11.72 As to the pedestrian swing bridge over the canal, there is considerably more information before this inquiry than there was in 2012. Solely in terms of deliverability, having regard to correspondence with the CRT, the draft Heads of Terms with ABC, the submissions of ABC, the pre-application comments of the lpa, the terms of the S106 Agreement and the applicants' qualified acceptance of a negatively worded planning condition, I consider there is no reason to conclude that a pedestrian bridge could not be delivered [10.12; CD 60 & Docs 31, 32, 33 & 103].
- 11.73 Regarding the impact of the development on Bridge Cottage, the submissions are based on boundary details shown on 2 plans [9.32 & Doc 92 Plans A & B]. Plan B is the Land Registry Title Plan (WYK112704) dated February 2006 and is consistent with a copy of the registered title for Bridge Cottage obtained by the applicants in October 2015 [Doc 35 Annex 3]. Plan A appears to be a plan submitted to the lpa in January 2006 as part of a planning application for works to Bridge Cottage. On Plan A, the red edged area is inconsistent with the extent of the land shown on the registered title in that it includes land between the southern elevation of the cottage and the canal. In my view, only the registered title plan can be relied on to determine the boundaries of land ownership. A comparison of the detailed drawings for the swing bridge and the registered title plan shows that there would be no over-sailing of land included within the registered title of Bridge Cottage [Doc 35 Annex 3].

## **Consistency with Government policies on promoting sustainable transport and delivering a wide choice of high quality homes**

### *Sustainability and Promoting Sustainable Transport*

- 11.74 RUDP Policy UDP1 seeks to promote sustainable patterns of development by focussing development on urban areas with good public transport links and proximity to essential and facilities and services [4.1]. The location strategy for the Shipley Constituency recognises Bingley as one of the most sustainable locations in this part of the District [4.1]. This site was allocated in the RUDP as a housing site under Policy H2. However, due to a misunderstanding regarding the saving of policies, Policy H2 lapsed and the site is no longer a housing allocation in the development plan [6.33 to 6.36].
- 11.75 The above situation was not the intention of the Ipa and it subsequently resolved that the allocation of a site for housing should be accorded significant weight in the determination of any planning application [6.38 & 6.39]. GAG accepts that the former allocation of this site is a material consideration that attracts weight [6.32]. I have no reason to disagree with that position and the thrust of the emerging CS policies reinforces that view. CS Policies DC1 and SC4 seek to support, protect and enhance the role of Bingley as a hub for the local economy and the main focus for housing and other facilities.
- 11.76 This is a site located immediately adjacent to the built-up areas of Crossflatts and Bingley and would represent an urban extension. Whilst it is important to minimise the use of greenfield sites, the SHLAA identifies that an adequate supply of deliverable and developable land capable of meeting the scale of new housing required cannot be identified without the significant use of greenfield land [CD 19 paragraph 5.2.20].
- 11.77 Having regard to the RUDP, the Ipa's intentions regarding previous RUDP housing allocations and the thrust of the emerging CS and the absence of a 5-year supply of housing land, I consider that the use of the application site for the development of up to 440 dwellings would be consistent with RUDP Policy UDP1 and national policies that promote a sustainable pattern of development. This conclusion is wholly consistent with that of the 2012 Inspector and the SoS [CD 8 paragraph 158 & CD 10 paragraph 13].
- 11.78 Section 4 of the Framework sets out the Government's objectives relating to the promotion of sustainable transport. These include: balancing the transport system in favour of sustainable transport modes giving people a real choice about how they travel (paragraph 29); locating developments in areas where the need to travel will be minimised and the use of sustainable transport modes can be maximised (paragraph 34); that developments should have access to high quality public transport facilities (paragraph 35); aiming for a balance of land uses so that people can be encouraged to minimise journey lengths (paragraph 37) and for that larger scale residential developments where practical promote a mix of uses so as to provide the opportunity to undertake day-to-day activities on site (paragraph 38).
- 11.79 The accessibility of this site has been considered twice before; once in 2004 when the Inspector's report into the RUDP was published and again by the

2012 Inspector (CDs 16, 8 & 10]. In 2004 the Inspector noted that, although separated from Crossflatts and Bingley by the canal, the site could be served by a replacement bridge at Micklethwaite Lane together with a new footbridge connecting the site to Canal Road. The Inspector went on to note that, whilst the land would be beyond the IHT<sup>49</sup> desirable walking distances for some common facilities, the majority of the site would be within the IHT acceptable walking distances of these services; that higher level services and employment were available a short bus ride away in Bingley town centre; that the walk or cycle distance to the town centre alongside the canal although lengthy was attractive and that schools were within acceptable walking distances. Overall the Inspector concluded that the *"land was not so inaccessible as to be unworthy of allocation for housing"*. This conclusion came before he made reference to the developers' offer to fund, if necessary, a bus-stop into the site. As I see it, the RUDP Inspector's conclusions were formed by the potential for a pedestrian link over the canal to Canal Road and not the offer of the bus service. In 2012, the Inspector and the SoS undertook an assessment of accessibility [CD 8 paragraphs 159 to 166 & CD 10 paragraph 13]. Then, having regard to the measures proposed, the conclusion was that there was a reasonable level of accessibility by non-car modes and the development would be consistent with the objectives of Framework paragraph 34.

- 11.80 Although adjacent to the built-up area, Crossflatts and the facilities and services it provides is separated from the application site by the canal. There are bus stops for north and south bound services located close to the junctions of Queens Road and Keighley Road and Canal Road and Keithley Road. These stops are served by "Real Time" information and have raised kerbs. Beyond to the south-east there is pedestrian access to Crossflatts railway station.
- 11.81 Access to Crossflatts from the site would be via, the new swing bridge and pedestrian access would be provided to Fairfax Road which links to the canal towpath at Bingley Five Rise Locks or to Bingley town centre via Beck Lane, Hall Bank Drive and Park Road. Although the applicants do not consider it necessary, they propose that a pedestrian footbridge could be provided over the canal at Canal Road to improve pedestrian connectivity [5.16 & Doc 50 paragraph 6.10.18]. GAG's and the Ipa's position regarding the pedestrian bridge is that the bridge is necessary and should be the subject of a negatively worded condition [6.24 & 7.56]. There is reference to the pedestrian bridge in the Framework Travel Plan which says that it would, *"provide improved pedestrian routes between the site and the various local facilities within Crossflatts which include bus and train facilities"* [Framework Travel Plan paragraph 4.28].
- 11.82 Although funded by the applicants, the provision of the bridge would be the responsibility of the Council. If the Council cannot provide the bridge within the timescale set out in the S106 Agreement the fall-back position is that this money would be applied to procure the provision of a new bus service or an extension of the existing services from the development. This is a significant

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<sup>49</sup> Institute of Highways and Transportation.

material change from the position at the 2012 inquiry. Then, if the Council could not have delivered the pedestrian bridge the money would have reverted to the applicants.

- 11.83 The IHT Guidelines for Public Transport in Developments published in 1999 refers to the acceptable walking distance to a bus stop being 400m [CD 23]. The IHT Guidelines for Journeys on Foot published in 2000 suggests acceptable walking distances to: town centres of 400m with a preferred maximum of 800m; for commuting and schools 1km and a preferred maximum of 2km and elsewhere 800m with 1.2km as the preferred maximum [CD 24]. Manual for Streets (MfS) published in 2007 highlights that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800m) walking distance of residential areas which residents may access comfortably on foot. However, this is not an upper limit and MfS states that walking offers the greatest potential to replace short car trips, particularly those under 2km [CD 25].
- 11.84 Document 51, Appendix B, page 129 shows the location of the facilities and services in the area with walking distances from the site. Given this is an outline application with layout a reserved matter it is difficult to be precise about the distance to various facilities. In the absence of a detailed layout the applicants' figures are a reasonable basis on which to judge accessibility.
- 11.85 In light of Framework paragraph 38, an objector highlights that as the development does not include a mix of land uses it is inherently unsustainable [9.23]. However, the Framework reference is qualified in 2 ways "*large scale*" and "*where practical*". In my view, this application should not be regarded as large scale and, in my experience it is rarely practical or viable for developments of this scale to provide the mix of the land uses suggested.
- 11.86 There is a range of facilities and services available within and near to Crossflatts that could provide for the day-to-day needs of the development [2.5]. Although Micklethwaite Lane rises from Keithley Road and the application site rises to the north-east, the slopes are not unduly steep and would not act as a deterrent walking. The furthest part of the development would be within the IHT acceptable walking distance of 1km to Crossflatts Primary/Nursery School. At some 1.04km, the furthest point of the development would be just outside the acceptable walking distance but be well within the 2km preferred maximum distance. At a distance of some 600m, the shops on Keithley Road and Canal Road would be within the acceptable IHT walking distance of 800m. At some 1.1km the distance from the furthest part of the development to the Castlefields Industrial Estate, located to the south of Keithley Road would be just over the IHT acceptable walking distance of 1Km but well within the 2km preferred maximum. The distance to Crossflatts Recreation Ground from the furthest part of the development would be below the 800m acceptable IHT distance.
- 11.87 Bus and rail services are available from bus stops on Keithley Road near to the junctions of Queens Road and Canal Road providing regular day and evening services to Bingley, Bradford, Keithley and Leeds [Doc 50 pages 98 & 99]. Other than the proposed dwellings in the south-western corner of the

application, the remainder of the site would be beyond the 400m walking distance to a bus-stop. The nearby Crossflatts Station is located on the Airedale Line offering regular services to Leeds, Shipley, Keithley and Skipton. The station has a car park and on-street parking is also available [Doc 50 pages 99 & 100]. Only the furthest parts of the site in the north would be more than the IHT recommended distance of 800m from Crossflatts Station. Therefore, whilst large parts of the development would be beyond the preferred walking distance, they are well within the 2 km distance suggested by MfS where walking offers the greatest potential to replace short car trips. Moreover, the Travel Plan and the S106 includes a proposal to provide Metro Cards to occupiers which would, notwithstanding the distances to the bus stops, encourage use of the public transport.

- 11.88 Cycling is a recognised alternative to the car and the canal towpath is part of the national/local route and provides access to Bingley town centre some 1.8km to the south-east and Keithley some 4.3km away [Doc 50 page 98]. These distances and journey times would not be excessive or inconvenient.
- 11.89 Given that Canal Road runs almost east to west and joins Keithley Road close to its junction with Micklethwaite Lane the proposed pedestrian bridge would not result in reduced walking distances from the northern and eastern parts of the development to the services and facilities in Crossflatts. However, for dwellings in the south-eastern and eastern sectors of the site, the bridge would result in significantly reduced walking distances to Crossflatts, in particular the bus and rail services. In my view these housing areas would form a significant proportion of the development. Accordingly, the pedestrian footbridge is, in my view, necessary to achieve the Framework objective of locating development where the use of sustainable transport modes can be maximised.

#### *Delivering High Quality Homes*

- 11.90 Section 12 of the Framework sets out the Government's objectives on the delivery of a wide choice of homes. These include boosting significantly the supply of housing and identifying the size type, tenure and range of housing required reflecting local demands. It is a strategic priority of the Ipa to ensure that the District retains economically active households. The SHMA<sup>50</sup> has identified that an increase in the number of 3 and 4-bedroom properties and detached, semi-detached and flats across the District is needed to match provision with aspiration and this development would help to achieve this priority. The SHMAs have identified that demand for core family housing such as detached and semi-detached houses with sizes ranging from 2 to 4 bedrooms would be exacerbated if there is not a strong focus on the supply of family housing [CD 19 paragraph 5.2.85]. Bingley is identified as a principal location and this site would provide 49% of the deliverable housing outside of the Green Belt in this market sub-area [Doc 60 paragraph 8.7]. GAG accepts that the application site is important to furthering the Ipa's objectives of meeting its needs in the district [5.22 & 7.57].

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<sup>50</sup> Strategic Housing Market Assessment.

- 11.91 The applicant's intention is to provide a range of house types from 1-bed apartments through to 4/5-bed detached houses. Twenty percent of the total number of dwellings provided would be available as affordable homes. This provision would be consistent with the strategic aims of the Ipa as regards the location and type of housing required. I have noted the reference to local rates of homelessness, the lack of public sector housing and the nature of likely occupants [9.21 & 9.22]. Tackling issues such as homelessness and the direction of public investment in housing are matters for Parliament to determine and are not matter to be dealt with as part of an inquiry into an individual planning application. Except in particular circumstances that do not apply in this case, planning restrictions on tenure and the purchase of general market housing are not the subject of local or national planning policy.

*One-Way Operation of Sty Lane*

- 11.92 The development of the site includes the introduction of a one-way system in for some 70m from the junction of the new spine road and Sty Lane [3.4]. The eastern end of Sty Lane rises steeply, contains a number of tight bends and joins Lady Lane/Walsh Lane at sharp angle at the end of a steep section of carriageway. In the interests of highway safety, the implementation of this element of the scheme is necessary.

- 11.93 GAG estimates that the one-way system would result in residents travelling an additional 900,000km and several objectors have highlighted the inconvenience this would cause [8.11 & 7.41]. One objector has estimated that the cost to the community and the nation of the reduced speed limits and the introduction of the one-way system could be as much as £581,000 [9.26]. Although these figures were not materially challenged, they have not been validated and as such should be treated with caution. The introduction of the one-way system would result in inconvenience to some residents and result in additional costs and time. The 2012 Inspector concluded that taking the whole scheme in the round, the inconvenience to residents would not be unacceptable. I have no reason to differ from that conclusion.

*Conclusion on Sustainability, Sustainable Transport and Housing*

- 11.94 This site was previously allocated for housing in the RUDP, its absence as an allocated site was the result of a mistake and it is common ground that weight should be attached to that allocation. Although a greenfield site, it is located on the edge of the urban area and in an area regarded by the RUDP and the emerging CS as a highly sustainable location. The site is located within reasonable walking distance of facilities and services and accessibility can be enhanced by the provision of a pedestrian footbridge at Canal Road and through the provisions of the Travel Plan. The scheme would provide up to 440 dwellings ranging from 1-bed apartments to 4/5-houses of which 20% would be provided as affordable houses. The development of this site would be consistent with the objectives of RUDP1 and Section 4 of the Framework, particularly paragraph 34 and Section 6. Given the introduction of the one-way system would result in some inconvenience to residents this is a negative factor that has to be weighed in the planning balance.

**Benefits**

- 11.95 It is common ground that the district does not have a 5-year supply of specific deliverable sites to meet housing requirements; at best, it is about 2.05-years. At the time of the 2012 inquiry, the supply position was some 2.5-years [CD 8 paragraph 233]. This indicates that notwithstanding the Framework requirement for Ipsas to "*boost significantly the supply of housing land*" the availability of deliverable housing land in the District has worsened. Moreover, the District has failed to achieve targets for housing provision since 2008 [5.93]. In this context, the applicants' submission that there is an acute need in the context of a chronic failure to deliver is an understatement. Based on a start on-site in October 2016, the applicants estimate that by 2019/2020 the site could deliver some 240 dwellings [Doc 4]. The provision of affordable housing, at 20% of the total, is also a significant contribution to need within the District. The contribution that this development would make to address the acute shortage of housing is a benefit that should attract very substantial weight in the planning balance.
- 11.96 Economic benefits that would flow from the application include those arising from employment during the development phase; a New Homes Bonus payment and increased Council Tax revenues. Factors such as these are generally held to be benefits of development and there is no policy requirement to dismiss these on the basis that they are transfers within the national economy [9.5].
- 11.97 The New Homes Bonus is a grant paid by the Government to Councils for increasing the number of homes and it is for Councils to decide how to spend the bonus payment. This, in my view, is a benefit albeit paid for by wider taxation. Similarly, increased Council Tax revenue can legitimately be viewed as a benefit. New houses will be occupied by existing residents or new people to the district. The payments made by new residents are a benefit. Existing residents would be vacating their properties which would be occupied by existing or new residents and the same benefits accrue and so the chain goes on. Whilst there is a possibility that some construction jobs could be taken by foreign nationals there is just as much chance of the jobs being taken by Bradford residents and benefiting the local economy. Moreover, there are no restrictions on the transfer of money abroad and as far as I am aware there is nothing in public policy that requires that potential to be taken into account in determining a planning application.
- 11.98 The SoS in 2013 attached significant weight to the above economic benefits [CD 10 paragraph 33]. There is nothing in local and national planning policy or guidance that has changed to suggest that that these matters should no longer be considered as benefits or to come to a different conclusion on the weight to be attached to them. Accordingly, these economic benefits should attract very significant weight in the planning balance.
- 11.99 The objector appears to class the obligations provided for by way of the S106 Agreement under the heading of direct benefits. However, that is not how it is portrayed by the applicants nor is my understanding that they are claiming these as benefits. The evidence sets these payments out under the heading of financial commitments by the applicants [Doc 63 & 8.67]. The sums



involved and the works proposed are as the result of the development and necessary to make it acceptable in planning terms and as such they are not strictly benefits. However, some of the obligations would have spin-off benefit to the wider community. For example, the reduction in speed limits would benefit existing road users in terms of reducing the risk of serious injury or fatalities when accidents occur. Improvements to existing off-site recreational areas would have a spin-off benefit for existing residents. Whilst the replacement of the Micklethwaite Lane swing bridge is generated by the technical requirements of serving the new development it would include a dedicated pedestrian footway. This would be a significant spin-off benefit to existing users of the bridge who regularly come into conflict with vehicles [Doc 50 pages 33 & 34].

## **Other Considerations**

### *Green Belt*

11.100 The application proposes development within the Green Belt involving part of Sty Lane and the realignment of its junction with Micklethwaite (CD 15 Plans 2 & 9). RUDP Policy GB1 says that except in very special circumstances planning permission will not be granted in the Green Belt for development other than other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it. Framework paragraph 90 sets out similar provisions. The realignment of a short length of Sty Lane and the alteration to its junction with Micklethwaite Lane would have no additional or material impact on openness or conflict with the purposes of including land within it. Accordingly, this part of the application would not comprise inappropriate development in the Green Belt. My conclusion is consistent with that of the 2012 Inspector and the SoS [CD 8 paragraphs 230 & 231, CD 10 paragraph 31].

### *Biodiversity*

- 11.101 The Leeds Liverpool Canal is an SEGI protected through Policy NE9. Development will not be permitted unless it is shown that the need for the proposal outweighs the need to safeguard the nature conservation value of the site. Where development is permitted that would damage the nature conservation value of a site, such damage will be kept to a minimum. Policy NE10 seeks to ensure that development proposals protect important landscape, ecological, geological features, or wildlife habitat that accommodates protected species. Policy NE13 seeks to ensure that wildlife corridors are protected and that development on land affecting or adjacent to a wildlife corridor should make provisions for the retention of the corridor.
- 11.102 Habitats within the site are assessed as being of limited ecological value consistent with long-term agricultural management as stock grazed pasture. Those areas identified as being of local ecological value are the existing hedgerows and tree planting on the site. The Canal SEGI, which forms the southern boundary to the site, the established broadleaved woodland and the presence of foraging and commuting bats represent greater ecological value.
- 11.103 Bat surveys have confirmed the presence of a common pipistrelle roost within a tree along the southern site boundary. The main foraging areas are around

trees on the western and eastern site boundaries, and in fields in the west, centre and east of the site. Commuting routes were identified along the western boundary and heading north-south and east-west across the site.

- 11.104 Although the development would result in a net loss of semi-natural habitat and temporary disturbance to sensitive ecological receptors, the preparation and implementation of a Construction Environmental Management Plan and the careful phasing of works would reduce the significance of effects on these receptors. In addition, concurrent habitat protection and creation and long-term enhancement would further reduce the significance of effects on ecology and nature conservation. These matters are the subject of a suite of suggested conditions, SCs10, 11, 12, 21, 31 and 39, designed to mitigate the impact of the development on the biodiversity value of the site.
- 11.105 The application site is beyond 400m from the South Pennine Moors Site of Special Scientific Interest (SSSI) which forms part of the South Pennine Moors Special Area of Conservation (SAC) and Special Protection Area (SPA). The emerging CS has undertaken a Habitats Regulation Assessment, which identifies the potential for adverse effects with respect to new housing developments in proximity to the SPA/SAC particularly in relation to urban edge effects within 400m, loss of feeding area used by SPA birds within 2.5km and recreational disturbance/tramping.
- 11.106 NE indicates that the application site does not contain habitats that would support SPA bird populations and that the development is unlikely to result in urban edge effects and the loss of feeding areas. However, there is the potential for recreational disturbance and/or tramping effects to occur in combination with other housing developments in the area. The S106 Agreement provides for a contribution of £50,000 towards mitigating any potential impacts on the SPA. Having regard to all the evidence, I have no reason to disagree with the conclusion of NE that, subject to the agreement and implementation of appropriate mitigation measures that the proposed development would not have an adverse effect on the integrity of the South Pennine Moors SSSI, the South Pennine Moors SAC and SPA and that an Appropriate Assessment under the Habitats and Birds Directive is not necessary.
- 11.107 In light of the above, I conclude that the proposed development would not have a significant adverse or unacceptable impact on the ecology of the area and would not conflict with the objectives of RUDP Policies NE 9, NE10 and NE13.

*Recreational Value of the Leeds Liverpool Canal*

- 11.108 RUDP Policy BH20 seeks to ensure that development proposals alongside or highly visible from the canal should maintain or where practical make a positive contribution to its recreational, tourism and environmental value. This may be achieved by improving access to the canal towpath; retaining features of historical importance to the canal; incorporating appropriate hard and soft landscaping; and ensuring that the use of design, material and detailing takes full account of their context.

11.109 The Leeds Liverpool Canal is a significant and well used recreational asset by boaters and the towpath by casual walkers, cyclists and runners [9.46]. Tourists are attracted by the canal's industrial heritage in particular the impressive Bingley Five Rise Locks. The semi-rural surrounding and the views across the application site form an attractive backdrop to the canal. There would be no direct impact on the canal tow path and those using it would be able to continue to experience the rural aspect further to the north-west. I have referred to the likely impact of the proposal on the setting of the Bingley Five Rise Locks and concluded that there would be no material impact on the enjoyment of and ability to interpret the value of this feature. Although in outline, the Master Plan demonstrates that whilst built development would extend along much of the site's canal frontage it could be implemented in such a way that did not materially harm the amenity value of the canal [Plan 6]. I have no reason to doubt that conclusion. Accordingly, the proposal would not conflict with the objectives of RUDP Policy BH20.

#### *Air Quality*

11.110 RUDP Policy P1 indicates that development will not be permitted where it would have an unacceptable effect on air quality. Emerging CS Policy EN8 indicates that developments that have the potential to adversely impact on air quality will be required to incorporate measures to mitigate or offset their emissions or impacts.

11.111 Whilst the Council undertakes air quality monitoring across the district, there are no monitoring stations in the immediate vicinity of the site. The nearest is in Bingley, some 1.4km to the south of the site. Interrogation of the available data indicated that there were no exceedances of the objectives for hourly mean NO<sub>2</sub> or the 24-hourly mean PM<sub>10</sub>. The ES included an assessment of the impact of the development on air quality [ES Section 10]. This concluded that the changes in concentrations of NO<sub>2</sub> and PM<sub>10</sub> are likely to meet the respective statutory air quality objective levels at all locations both within and without the development. The ES concludes that the development would cause a negligible to low increase in NO<sub>2</sub> concentrations and a negligible change in PM<sub>10</sub> concentrations. Pollutant concentrations within the site are predicted to be well below the relevant objective levels. Thus, the residual effect of the development on concentrations of NO<sub>2</sub> and PM<sub>10</sub> is predicted to be of negligible significance. A review of the DEFRA Pollution Climate Mapping Model indicated that in Bingley there is no risk of non-compliance with EU Limit Values [Doc 12]. The lpa has taken no issue with these findings and a SOCG, which took into account changes in guidance since the ES was published, was agreed in September 2015 [Doc 65]. Given the work was carried out following standard methodologies and agreed with the lpa, I have no reason to disagree with the results of the applicants' modelling.

11.112 In line with the lpa's requirements, the applicants have carried out a full Damage Costs Calculation showing one and 5-years costs. Whilst an objector has carried out a costing exercise based on a 60-year period and those figures were not challenged [9.25 & 9.26], I see no reason to depart from the methodology agreed with the lpa. The applicants have committed to provide via the S106 Agreement, the Travel Plan and planning conditions appropriate

mitigation measures [Doc 12]. These include: electric car charging points, (SC 26), specific measures in relation to walking including provision for the pedestrian footbridge, the appointment of a Travel Plan Coordinator; cycle storage facilities; public transport information; provision of Metro Cards and improvements to the bus stops.

11.113 On the basis of the evidence before me, I conclude that air quality impacts have been properly evaluated and that appropriate mitigation measures have been included within the application. On this basis, the negligible impact on air quality as a result of the development would not constitute a reason for refusal. Any residual costs to the nation and the local community are matters to be weighed in the planning balance [9.26].

#### *Bridge Cottage*

11.114 I have noted the comments from the occupier of Bridge Cottage regarding vehicular access, potential damage from piling and disturbance from operation of the bridge [9.30 & 9.31]. During the formation of the turning head, concerns regarding access could be addressed through, if necessary, a minor amendment to the scheme [Plan 7]. As to piling and any subsequent damage this would be a private matter between the developer and the landowner. As to disturbance, SC25 deals with construction operating hours and timing of any sheet piling, which should acceptably mitigate any impact. As to the operation of the bridge, particularly the automatic barriers, I consider that the potential impact of their operation could be addressed during the commissioning of the bridge so as to strike a balance between the safe operation of the bridge and the protection of living conditions.

#### *Drainage*

11.115 Yorkshire Water has no objections to the proposed scheme and SCs 15 and 16 would ensure that local concerns are adequately addressed [8.1 & 9.54].

#### *Impact on Emergency Services*

11.116 Concern was expressed regarding the impact of the proposal on the ability of the emergency services, particularly ambulances, to access the proposed development and the surrounding area, particularly during the time between the closure of the bridge and the opening of the emergency access [9.39-9.41]. For the construction period of the replacement swing bridge the suggested conditions include one which provides for the details of a diversion route to be agreed with the lpa. I have no doubt that in devising a diversion route the lpa would consult with the emergency services and once a route has been identified each of the emergency services would be informed of the route and the duration of the diversion. This is not an unusual procedure with larger developments that involve temporary road closures.

11.117 During normal operation of the bridge, the ability of emergency vehicles to access the area would be no different than it is now. The implementation of the emergency access procedure would be swift, less than 8 minutes and emergency vehicles approaching the area would be advised of a closure by the VMSs in the surrounding area and the emergency services would be signed up to the "Bridge Direct" notification system. The bollard system at

the proposed emergency access point would also include a lockable bollard operated by a key that all emergency service providers carry. In these circumstances if a vehicle approached the emergency access point before the automatic bollard was lowered, access could be achieved. Indeed, in this situation, the emergency services could gain access to the development and the area beyond via Oakwood Drive at any time, thus shortening response times. In light of these considerations, I conclude that the proposed scheme and the emergency access proposals would not have an unacceptable impact on the ability of the emergency services to access the development or the wider area.

### **The Planning Balance**

- 11.118 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in determining planning applications. Framework paragraph 215 indicates that due weight should be given to relevant policies in the development plan according to their consistency with the Framework i.e. the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 11.119 Paragraph 14 sets out a presumption in favour of sustainable development which for decision taking means that where relevant policies of the development plan are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework, taken as a whole; or specific Framework policies indicate development should be restricted e.g. policy relating to HAs.
- 11.120 The development plan comprises the RUDP adopted in 2005. Although allocated as a housing site in the RUDP through a misunderstanding the allocation of this site within the development plan lapsed [5.88 & 6.32 to 6.37]. The Ipa's commitment to the contribution of the application site to meeting the housing needs of the District is reflected in a November 2011 resolution that unimplemented housing sites should be protected to meet the district's housing needs and all previously allocated housing sites should be accorded significant weight when considering their use for residential development [6.38]. I agree with the applicants and the Ipa that, given this site was the subject of robust examination as part of the adoption of the plan, the former allocation deserves to be accorded significant weight. GAG acknowledges that this history is a material consideration to be weighed in the planning balance [5.88]. My conclusion on this is reinforced by the thrust of the emerging CS which seeks to support, protect and enhance the role of Bingley as a main focus for housing and other facilities [4.15 & 5.91].
- 11.121 It common ground that the relevant RUDP policies relating to highways (TM2) and HAs (BH4A, BH7 & BH10) are inconsistent with policies contained at Framework paragraphs 32 and 132 to 135 and as such are out of date. Therefore, subject to whether the Framework policies relating to HAs indicate

that development in this case should be restricted, the guidance in Framework paragraph 14 applies.

- 11.122 A conclusion whether a development is sustainable is a decision that has to be taken in the round having regard to all of the dimensions that go to constitute sustainable development. In this case whilst I recognise that one of the building blocks of this development i.e. the introduction of a one-way system on Sty Lane has negative sustainability implications for the local community, these would, in part, be mitigated by the applicants' response in relation to the Damage Costs Calculation [11.113]. Thus, assessing the development as a whole relation to its economic, social and environmental dimensions and benefits, I consider that, in the round, this proposal can be considered as sustainable development [11.94 to 11.99].
- 11.123 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have "*special regard to the desirability of preserving a LB or its setting or any features of special architectural or historic interest which it possesses*". In a CA, S72 (1) of the same Act requires the decision maker to pay "*special attention... to the desirability of preserving or enhancing the character or appearance of that area*". With regard to S66 (1), the Courts have held that when carrying out the balancing exercise the reasons given by the decision maker must demonstrate that considerable importance and weight has been given to the statutory duty. Framework paragraph 132 indicates that when considering the impact of a development on the significance of a designated HA great weight should be given the asset's conservation. I see no distinction between the High Court's use of the word "*considerable*" and the Framework's use of the word "*great*".
- 11.124 Here, harm to designated and non-designated HAs would fall within the range of less than substantial albeit that the effect on Laythorpe Farmhouse, the earthworks to the south and the Canal CA lies to the top end of the scale within this category. That said it is common ground that the Framework paragraph 134 test is engaged and the public benefits of the proposal should be weighed against the harm.
- 11.125 It is common ground amongst the main parties that this scheme would deliver significant social and economic benefits. Chief amongst the benefits is the contribution towards meeting market and AH needs within the District. The applicants and Ipa agree that the housing land supply is "*at best 2.05 years supply*" [5.93 & 6.42]. It is important to note that, albeit marginally, the land supply position has worsened since the 2012 inquiry. Moreover, the Ipa's record in achieving housing targets is worsening. In 2012 there was a 4-year record of under-provision and now there is a 7-year record of failure [5.93]. Here, the position on housing land supply can be fairly characterised as one of acute need in the context of a chronic failure to deliver. GAG characterises the contribution this site would make to the provision of market and AH as "*much needed*" [7.55].
- 11.126 Key objectives of the Government as reflected in the Framework are: to boost significantly the supply of housing; deliver a wide choice of high quality homes through the creation of sustainable communities. I have concluded earlier and as reflected in the SoS's 2013 decision, the application site is in a

sustainable location and, taken in the round, would comprise sustainable development. As such it would accord with the objectives of RUDP1 and Framework Section 4. I attach considerable weight to desirability of preserving the setting of the various LBs and the desirability of preserving or enhancing the character or appearance of the Canal CA. However, substantial weight attaches to acute need for market and AH in this district and the persistent and chronic failure of the lpa to deliver a 5-year housing land supply. This need and the other benefits that would flow from this development, materially outweigh the less than substantial harm, albeit that for the key designated HAs of Laythorpe Farm and the Canal CA the harm is towards the top end of that category.

- 11.127 In light of this conclusion, I consider that the requirements of Framework paragraph 14 are fully engaged. Thus, in this case, the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework, taken as a whole.
- 11.128 Under normal operation of the swing bridge, albeit there would be some additional pressure on the capacity of the Park Road/Main Street junction, the development would not have an unacceptable impact on the safety and free flow of traffic on the surrounding highway network. Were there a failure of the bridge in the road closed to traffic position, the time taken to fully open the emergency access would be limited and the amount of traffic whose only option would be to use the route Micklethwaite village and would not severely interfere with the safety and free flow of traffic on that route. During the rare times when the emergency access is in use, whilst there would be some additional pressure on the Oakwood Drive/Lady Lane, Lady Lane/Park Road and Park Road/Main Street junctions, the scheme would not adversely highway safety and the free flow of traffic. However, the pressure on the junctions, albeit occurring infrequently, would conflict with RUDP Policy TM2. However, that conflict/harm would not be at a level so as to engage the guidance set out a Framework paragraph 32, which indicates that development should only be refused on transport grounds where the residual cumulative impacts of the development are severe.
- 11.129 In this case, there would less than substantial harm to designated and non-designated HAs harm albeit in some cases at the top of that category. As such the application would conflict with the objectives of RUDP Policies BH4A, BH7 and BH10. Whilst there would be a change in the character of the area from open agricultural pasture to built development, I consider that with careful attention to detail the development would not appear intrusive or unacceptably affect the landscape character of this part of the Airedale Landscape Character Area. As such the proposal would not conflict with the objectives of RUDP Policies UDP 3, NE3 and NE3A. Whilst part of the application site is located within the Green Belt, the proposal would have no material impact on openness or conflict with the objectives of including land within it. As such the scheme would not be inappropriate development and would not conflict with RUDP Policy GB1. Whilst there would be some limited impact of the development on biodiversity interest, these impacts could be mitigated by the impositions of planning conditions and the provisions of the S106 Agreement. In this context, proposed development would not have a

significant adverse or unacceptable impact on the ecology of the area and would not conflict with the objectives of RUDP Policies NE 9, NE10 and NE13. The proposal would have no material impact on the recreational value of the Leeds Liverpool Canal and impacts on air quality would be mitigated through the implementation of appropriate measures provided by way of the S106 Agreement and planning conditions. As such the application would not conflict with the objectives of RUDP Policies BH20 and P1.

- 11.130 In this case, the benefits of the scheme are substantial, chief amongst which is the provision of market and AH in a district where there is a persistent and chronic failure of the lpa to deliver a 5-year housing land supply. Added to this are the acknowledged economic benefits that would flow from the development particularly the furtherance of the lpa's strategy to ensure the area is a key driver of the Leeds City Region's economy and to promote growth in Bingley. New housing development and the contribution that this site would make is a key element of this vision/strategy.
- 11.131 Drawing all the above together and attaching considerable weight to the harm to designated and non-designated HAs and weight to the limited adverse impact the proposal would have on the operation of the highway network, the character and appearance of the area and biodiversity interests, I consider that the substantial social and economic benefits associated with this scheme significantly and demonstrably outweigh that harm.

### **Conditions and S106 Agreement**

- 11.132 The conditions attached at Appendix B reflect the suite of conditions agreed between the lpa and the applicants and should be imposed for the reasons set out in Document 24 and at paragraphs 10.2 to 10.6 above.
- 11.133 With regard to the provision of public information boards at the site of the limekiln rings/stone chambers, I agree with the lpa/applicants that the relevant conditions do not require amending and that this is a matter that would be more appropriately dealt with at the reserved matters stage [10.7].
- 11.134 As part of my assessment of the accessibility of the site and its role in the mitigation measures associated with the Damage Costs Calculation, I conclude that the pedestrian footbridge is necessary to make the development acceptable. In these circumstances, it is appropriate to impose a negatively worded condition to require the applicants to submit details of the pedestrian bridge and a programme for its implementation [SC 27 Annex B]. Having regard to all the evidence provided in relation to the bridge and its funding, I consider there is a reasonable prospect that it can be funded and delivered.
- 11.135 I have reviewed the obligations included within the S106 Agreement and having regard to the submissions made by the applicants and the lpa, I consider they are all necessary to make the development acceptable in planning terms, directly related to the development and fair and reasonably related in scale and kind to the development. Accordingly, I conclude that the S106 Agreement is consistent with the guidance at Framework 204 and R122 of the CIL Regulations and I have attached weight to it in coming to my conclusion.



## **Recommendation**

11.136 I recommend planning permission be granted subject to the planning conditions attached at Appendix B.

*George Baird*

Inspector

**ANNEX A – APPLICATION PLANS (CD 1C & CD 15).**

Plan contained in Inquiry Drawings Folder. \*denotes those drawings for determination at this stage. All others are informative.

Plan 1	2418 D 90 001	Site Location Plan*
Plan 2	2418 D90 002	Existing Site Plan*
Plan 3	2418 D90 003	Indicative Coloured Master Plan
Plan 4	2418 D90 004	Indicative Site Sections
Plan 5	2418 D90 005	Net Developable Areas
Plan 6	418 D90 006	Indicative Development Plan
Plan 7	2418 D90 101	Indicative Laythorpe Green Plan
Plan 8	2418 D90 102	Indicative Swing Bridge Plan
Plan 9	2418 D90 103	Indicative Sty Lane Alignment Plan
Plan 10	2418 D90 104	Indicative Emergency Access Plan
Plan 11	Parameter Plan 1	Disposition of Built Development
Plan 12	Parameter Plan 2	Scale
Plan 13	Parameter Plan 3	Form and Massing
Plan 14	Parameter Plan 4	Density
Plan 15	Parameter Plan 5	Landmarks
Plan 16	Parameter Plan 6	Hedgerows
Plan 17	Parameter Plan 7	Phasing Plan
Plan 18	Parameter Plan 8	Access
Plan 19	Parameter Plan 9	Indicative Movement Framework
Plan 20	Parameter Plan 10	Micklethwaite Lane Access
Plan 21	Parameter Plan 11	Oakwood Drive Access
Plan 22	8450/007	Walking Distances from the Site to Various Facilities
Plan 23	7529/002A	Swept Path Analysis of Proposed Swing Bridge.*
Plan 24	7529/003A	Swept Path Analysis of Proposed Swing Bridge.*
Plan 25	7529/004A	Swept Path Analysis of Proposed Swing Bridge.*
Plan 26	7529/005C	Indicative Alignment of Southern Spine Road*
Plan 27	7529/006C	Proposed Highway Improvements*
Plan 28	7529/007B	Emergency Access Arrangement and Cross Section
Plan 29	8450/001	Lady Lane/Oakwood Drive Proposed Calming Works
Plan 30	7529/009B	Oakwood Drive/Lady Lane Proposed Wider Improvements*
Plan 31	7529/010B	Proposed 20 and 30 mph Limits*
Plan 32	7529/011	Indicative Locations of Variable Message Signs*
Plan 33	7529/012A	Indicative Signalised Junction Layout*
Plan 34	7529/013C	Swept Path Analysis of Proposed Temporary Link*
Plan 35	8450/012	Worst Case Queues as a Result of Bridge Openings
Plan 36	7529/18C	Phasing of Off Site Works and Site Access
Plan 37	J4999-100 P2	Existing Swing Bridge & Highway*
Plan 38	J4999-101 P4	Proposed Temp Align Phase 1 Temporary Through Road*

Plan 39	J4999-102 P4	Proposed Road Align – Phase 2 – Post Diversion*
Plan 40	J4999-103 P4	Proposed Road Align – Visibility Sight Lines*
Plan 41	J4999-104 P2	Additional Sections*
Plan 42	J4999-107 P4	Proposed Swing Bridge – General Arrangement*
Plan 43	J4999-108 P3	Sections Through Proposed Bridge Alignment*
Plan 44	J4999-109 P2	Details of Proposed Finishes*
Plan 45	J4999-110	Micklethwaite Swing Bridge – General Arrangement*

## **ANNEX B - SUGGESTED CONDITIONS**

### Conditions for the Outline Part of the Hybrid Planning Application -Residential Development

1. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
2. The development hereby permitted shall begin not later than 2 years from the date of approval of the last of the reserved matters to be approved.
3. No development shall take place until a phasing scheme for the erection of the dwellings has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
4. Access (other than at Sty Lane and Micklethwaite Lane), appearance, landscaping, layout, and scale comprise the reserved matters. Details of the access (other than at Sty Lane and Micklethwaite Lane) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. Details of appearance, landscaping, layout, and scale for each phase shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved. Any application for the layout of a phase shall demonstrate that a development of a minimum of 420 dwellings and a maximum of 440 dwellings will be achieved across the site.
5. The development hereby permitted shall be carried out in accordance with Drawing Nos: 2418 D 90 001 Site Location Plan; 2418 D 90 002 Existing Site Plan; 7529/006 Rev C Proposed highway improvement at Sty Lane; 8450/001 Lady Lane/Oakwood Drive Proposed Calming works (junction); 7529/ 009 Rev B Lady Lane/Oakwood Drive Proposed Calming works (wider); 7529/010B Speed Limit; 7529/011 Proposed variable message signs: location plans; 7529/012A Micklethwaite Lane/Keighley Road Ind Signal Junction Layout; J4999-101 P4 Proposed Temp Align Phase 1 Temp Through Road and J4999-102 P4 Proposed Road Alignment, Phase 2, Post Diversion
6. The reserved matters shall be prepared in accordance with the illustrative plans listed below, the design and access statement, and the landscape strategy ref Fig 13.11 of Environmental Statement Chapter 13: Parameter Plan 1 Disposition of Built Development; Parameter Plan 2 Scale; Parameter Plan 3 Form and Massing; Parameter Plan 4 Density; Parameter Plan 5 Landmarks; Parameter Plan 6 Hedgerows; Parameter Plan 7 Phasing Plan; Parameter Plan 8 Access; Parameter Plan 10 Micklethwaite Lane Access; Parameter Plan 11 Oakwood Drive Access;
7. Apart from the dwellings served from Oakwood Drive, no phase of the development shall commence until the access from Micklethwaite Lane and Sty Lane, including the provision of the swing bridge and the temporary through road, has been laid out, surfaced and drained in accordance with a

- specification to be submitted to and approved in writing by the local planning authority.
8. No development shall take place until full details of the highway schemes at Keighley Road/Micklethwaite Lane, Oakwood Drive/Lady Lane, and Sty Lane/Micklethwaite Lane in accordance with approved drawings 7529/012A, 8450/001 and 7529/006C, together with a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. None of the dwellings to be accessed from Oakwood Drive shall be occupied until the highway scheme at Oakwood Drive/Lady Lane has been implemented in accordance with the approved details. None of the dwellings to be accessed from Micklethwaite Lane shall be occupied until the highway schemes at Keighley Road/Micklethwaite Lane, Oakwood Drive/Lady Lane, and Sty Lane/Micklethwaite Lane have been implemented in accordance with the approved details.
  9. Apart from the dwellings served from Oakwood Drive, no phase of the development shall commence until full details of the emergency access provisions for the site have been submitted to and approved in writing by the local planning authority. On these phases, none of the dwellings shall be occupied until the emergency access has been laid out in accordance with the approved details.
  10. No works relating to the erection of any dwelling and its curtilage, which is located within 20m of the canal edge, shall commence until a plan showing the position of boundary treatments for that phase has been submitted to and approved in writing by the local planning authority. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no other means of enclosure shall be erected without the prior approval of the local planning authority.
  11. No development shall take place until a scheme of tree and hedgerow protection measures has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented before any equipment, machinery and materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
  12. No development shall take place until an ecology and landscape management strategy and timetable, which shall include checking surveys for breeding birds, otters and white clawed crayfish, has been submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented in accordance with the timetable.
  13. No development shall take place until a scheme and programme of archaeological work has been submitted to and approved in writing by the

- local planning authority. The scheme shall be implemented in accordance with the approved programme.
14. No development shall take place until fencing has been erected around the carved rock in the north eastern part of the site in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The fencing shall be retained until all equipment, machinery and surplus materials have been removed from the site. No works shall take place within the fenced area without the prior consent of the local planning authority.
  15. No phase of the development shall commence until a scheme and programme for the provision of separate foul and surface water drainage works, including details of any balancing and off-site works, have been submitted to and approved in writing by the local planning authority. The surface water works shall maintain greenfield run-off rates of 5.12 litres/second/ha, which apply up to and including the 1 in 100 year plus climate change rainfall event. There shall be no piped discharge of surface water from the development prior to the completion of the approved surface water works, and none of the dwellings in any phase of the development shall be occupied until the drainage scheme has been implemented in respect of that phase.
  16. No structure or building shall be located over or within 4m of the centre line of the sewers which cross the site.
  17. No development shall take place until a phase 2 site investigation and risk assessment has been undertaken to assess the extent of any contamination on the site, and the resultant report has been submitted to and approved in writing by the local planning authority.
  18. No development shall commence until any remediation statement and programme required by condition 17, demonstrating how the site will be made suitable for residential development, and including provision for verification reports, have been submitted to and approved in writing by the local planning authority. Remediation works shall be carried out in accordance with the approved statement and programme. Any verification report shall be submitted to and approved in writing by the local planning authority prior to the occupation of each phase of the development.
  19. If unexpected contamination, not identified in the site investigation report, is encountered, operations on that part of the site shall cease immediately, and the local planning authority shall be informed within no more than five days. Prior to further works being carried out; further remediation works shall be carried out in accordance with a revised statement and programme to be submitted to and approved in writing by the local planning authority. The site or phase shall not be brought into residential use until all the verification reports have been approved in writing by the local planning authority.
  20. A methodology for the quality control of any material brought onto the site for use in filling, raising of levels, landscaping and garden formation shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved methodology and a verification report shall be submitted to and approved in writing by the local planning authority.

21. No phase of development which will take place within 10m of the canal shall be commenced until details of any associated proposed repairs and reinstated sections of the canal wall and of any associated excavations and earthworks have been submitted to and approved in writing by the local planning authority. Each phase of development shall be carried out in accordance with the approved details for that phase.
22. No phase of development which includes external lighting within 20m of the canal shall take place until details of such lighting have been submitted to and approved in writing by the local planning authority. The phase of development shall be carried out and maintained thereafter in accordance with the approved details.
23. No development shall take place until arrangements for access, storage, site offices, parking, loading and unloading of all plant, equipment, materials and vehicles, wheel cleaning or comparable measures, temporary roadways, and temporary signage required in connection with the construction of that phase, have been provided in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The approved arrangements shall be retained for the duration of the construction period.
24. Prior to commencement of the development a Construction Environmental Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the local planning authority. The CEMP must be prepared with due regard to the guidance set out in the London Best Practice Guidance on the Control of Dust and Emissions from Construction and Demolition. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority.
25. No construction work shall take place outside the following times: 07:30 to 18:00 hours from Monday to Friday, and 07:30 to 13:00 on Saturdays. There shall be no construction work at any time on Sunday and Bank or Public Holidays. Any sheet piling works to be carried out shall only take place within the following hours: 09:00 to 16:30 from Monday to Friday.
26. No dwelling built with a dedicated parking space shall be occupied until it has been provided with an outdoor, weatherproof electric vehicle charging point readily accessible from the dedicated parking space. Additional communal electric vehicle recharging points shall be provided at a rate of 1 per every 10 communal parking bays. The electrical circuits shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET Code of Practice on Electrical Vehicle Charging Equipment Installation 2012 ISBN978-1-84919-515-7 (PDF). All EV charging points shall be clearly marked as such and their purpose explained to new occupants within their new home welcome park/travel planning advice.
27. No development shall commence until details of and a programme for the construction of a pedestrian swing bridge over the Leeds Liverpool Canal to provide pedestrian access from the site to Canal Road has been submitted to

and approved in writing by the lpa authority. Development shall be carried out in accordance with the approved details and programme.

Conditions relating to the Full Application Part of the Hybrid Planning Application - Replacement of Existing Swing Bridge

28. The development hereby permitted shall begin not later than 3 years from the date of this decision.
29. The development hereby permitted shall be carried out in accordance with Drawing Nos: 2418 D 90 001 Site Location Plan; 2418 D 90 002 – Existing Site Plan; J4999-100 P2 Existing Swing Bridge and Highway; J4999-101 P4 Proposed Temporary Alignment Phase 1 Temporary Through Road; J4999-102 P4 Proposed Road Alignment Phase 2 Post Diversion of Micklethwaite Lane; J4999-103 P4 Proposed Road Alignment Visibility Sight Lines; J4999-104 P2 Additional Sections; J4999- 107 P4 Proposed Swing Bridge General Arrangement; J4999-108 P3 Sections Through Proposed Bridge Alignment; J4999-109 P2 Details of Proposed Finishes and J4999-110 Micklethwaite Swing Bridge General Arrangement.
30. No works involved in the removal of the existing swing bridge and the construction of the replacement bridge shall commence until a temporary footbridge has been installed and a diversion route is in place in accordance with details to be submitted to and approved in writing by the local planning authority. The temporary footbridge and diversion route shall be retained for the duration of the works involved in the removal and replacement of the swing bridge.
31. No development shall take place until the following details have been submitted to and approved in writing by the local planning authority: full sectional and appearance details for stone block canal coping and abutments to all areas of new piling and the canal edge; full details of all surfacing and facing materials, coursing, pointing and finish, and any fixed steps to all areas of the swing bridge pivot apron and its retaining structures; full details of all soft landscaping including the size, species and spacing of planting and the areas to be grass covered; full details of the extent, appearance, surface treatment and boundary to the turning head on the truncated section of Micklethwaite Lane; full details of the swing bridge balustrade which shall be constructed with a 3-bar horizontal rail pattern; full details of the surface treatment and containment of the generator hardstanding; a scheme of boundary treatment to Micklethwaite Lane, the canal and the swing bridge pivot apron; full details of the swing bridge control cabinet. The swing bridge shall be installed in accordance with the approved details and scheme.
32. Full details of any proposed lighting within 20m of the canal shall be submitted to and approved in writing by the local planning authority within 3 months of commencement of works to provide the vehicular bridge. The development shall be carried out and maintained thereafter in accordance with the approved details.
33. Prior to any construction works relating to the canal, a checking survey for otters shall be undertaken in accordance with a methodology to be first submitted to and approved in writing by the local planning authority. Any



- mitigation works to the canal approved by the local planning authority and arising out of the survey recommendations shall thereafter be implemented in accordance with the agreed details, and no construction works to the canal shall take place until the survey results and any mitigation scheme has been submitted to and approved in writing by the local planning authority. Works to the canal shall be undertaken in accordance with any approved mitigation scheme.
34. No development relating to the access and bridge works to the western part of the stone chambers at Micklethwaite Bridge shall take place until a scheme and programme of archaeological work in regard to the stone chambers site has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved programme. Details of the supporting foundations and the choice of load bearing materials for the proposed bridge and access works adjacent to the retained stone chambers shall be submitted to and approved in writing by the local planning authority in accordance with an agreed methodology. Thereafter the bridge and access foundation works shall be carried out and retained in accordance with the agreed details.
35. No development relating to the construction of the replacement swing bridge shall take place within 10m of the canal until details of the relevant proposed sections of the canal wall which are to be repaired and reinstated and details of any excavations and earthworks have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
36. No development shall take place until arrangements for access, storage, site offices, parking, loading and unloading of all plant, equipment, materials and vehicles, wheel cleaning or comparable measures, temporary roadways, and temporary signage required in connection with the construction of the replacement swing bridge, have been provided in accordance with a scheme which has been submitted to and approved in writing by the local planning authority. The approved arrangements shall be retained for the duration of the replacement bridge construction period.
37. No construction work shall take place outside the following times: 07:30 to 18:00 hours from Monday to Friday, and 07:30 to 13:00 on Saturdays. There shall be no construction work at any time on Sundays and Bank or Public Holidays. All sheet piling works shall take place within the following hours: 09:00 to 16:30 Monday to Friday and not on any Bank or Public Holidays.
38. The works hereby authorised shall not be carried out before a contract has been completed and which provides for the installation of a replacement swing bridge in accordance with the details of this planning permission.
39. Prior to commencement of the development a Construction Environmental Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the local planning authority. The CEMP must be prepared with due regard to the guidance set out in the London Best Practice Guidance on the Control of

Dust and Emissions from Construction and Demolition. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority.

40. Prior to the commencement of any construction works within 10m of the canal edge, a survey methodology and timetable for the detection of and any appropriate mitigation works in connection with white clawed crayfish, shall be submitted to and approved in writing by the local planning authority. Thereafter any mitigation works shall be implemented in accordance with the agreed details.

## **ANNEX C**

### **APPEARANCES & DOCUMENTS**

#### **APPEARANCES**

##### FOR THE APPLICANTS

Paul Tucker QC, instructed by Mr Robert Moore of Walker Morris LLP assisted by Miss Stanzie Bell of Counsel.

He called:

Alison France IEng, FIHE, AMICE, MCIHT.  
Sanderson Associates (Consulting Engineers) Ltd.

Andrew Brown BA, BArch, MSc, MRTPI, IHBC.  
Director, Urban Design & Planning, Woodhall Planning and Conservation.

Clive Brook BA, DIP TP, DIPMS, FRTPI.  
Director, Johnson Brook Planning & Development Consultants.

Stephen Sadler BA Hons, MRTPI .  
Head of Planning Consultancy, Walker Morris LLP.

Chris Slater  
Partner Walker Morris LLP.

##### FOR THE LOCAL PLANNING AUTHORITY

Martin Carter of Counsel, instructed by Susan Hemingway, City Solicitor.

He called:

John Rowley Eng Tech, MICHE  
Principal Engineer, Highway Development Control.

Fiona Tiplady BA (Hons), Dip TP, MRTPI.  
Development Project.

##### FOR THE GREENHILL ACTION GROUP

Ian Ponter of Counsel, instructed by Alyn Nicholls & Associates, 140 Denby Lane, Upper Denby, Huddersfield HD8 8UN).

He Called:

John Lowe C.Eng, BSc, MSc, MICE.

Alyn Nicholls BA, MRTPI.  
Alyn Nicholls & Associates.

Terry Brown,  
Chairman of the Greenhill Action Group.

## INTERESTED PERSONS

Mr Meares  
Mr Plumbe.  
Mr Kunz.  
Mr Pincbeck  
Mr Cahill  
Mrs Fleming.  
Mr Knight.  
Dr Morley.  
Cllr. Heseltine.  
Cllr. Pennington  
Cllr Shaw.  
Mr Harding.  
Mrs Collins  
Mr North  
Mr Cook, Airedale Boat Club.  
Mrs Payn, Crossflatts Village Society.  
Mrs Stead, Bradford Urban Wildlife Group.  
Dr. Findlay, Micklethwaite Village Society & Bradford Civic Trust.  
Mr Butler.

## DOCUMENTS

- Doc 1 - Applicants' Opening Submissions.
- Doc 2 - LPA Opening Submissions.
- Doc 3 - Greenhill Action Group Opening Submissions.
- Doc 4 - Development Delivery Schedule.
- Doc 5 - Notes of meeting between Mrs France (Applicants) and Mr Lowe Greenhill Action Group) on highway matters.
- Doc 6 - Speaking Notes of Mrs France, applicants' Highways Case.
- Doc 7 - Copy of email dated 25 August 2015 - Mrs France & TLC Travel Limited regarding capacity of existing buses and potential for diversion of a route to serve the development.
- Doc 8 - Technical Note on Car Parking on Keighley Road and Micklethwaite Lane.
- Doc 9 - Extract from Department of Transport Traffic Advisory Leaflet 5/05 March 2005.
- Doc 10 - Two photographs of car parking on Micklethwaite Lane.
- Doc 11 - Note on TRICs Data and Timings used in Bridge Queue Assessment.
- Doc 12 - Note on Air Quality.
- Doc 13 - Note and plan relating to Walk with Peds signal controlled junction.
- Doc 14 - Plan showing potential diversion route through East Morton.
- Doc 15 - Applicants' response to submissions of Mrs Fleming on Heritage Assets.
- Doc 16 - Note responding to Heritage submissions of Mrs Fleming.
- Doc 17 - Action Group Comment on applicants' Walk with Peds note.
- Doc 18 - Plan showing locations referred to by Mr Butler (Interested Person).
- Doc 19 - Speaking notes of Mr Brook (Applicants) on Housing Need and Land Supply.
- Doc 20 - Proposed pedestrian footbridge - comments on title.
- Doc 21 - Airedale Boat Club lease.
- Doc 22 - Airedale Boat Club - Licence for pedestrian swing bridge.
- Doc 23 - Note of frequency of canal bridge openings.
- Doc 24 - List of Suggested Conditions (CD58) – Final Agreed List.
- Doc 25 - Note from Mr Burke, Oakwood Drive.
- Doc 26 - Submissions of Mr Clarke, president Leeds & Liverpool Canal Society.
- Doc 27 - Letter dated 14 October from West Yorkshire Combined Authority.
- Doc 28 - Applicants' Note on Mr Lowe's use of worst case traffic movements.
- Doc 29 - Mr Lowe's response regarding use of worst case traffic movements.

- Doc 30 - Letter dated 14 October re draft heads of terms with Airedale Boat Club.
- Doc 31 - Letter dated 15 October CRT.
- Doc 32 - letter dated 18 September CRT.
- Doc 33 - Copy of email dated 15 October CRT to Walker Morris.
- Doc 34 - Copies of Historic England correspondence re Limekilns.
- Doc 35 - Applicants' Note regarding swing bridge location and land ownership.
- Doc 36 - Note on proposed changes to S106 Agreement.
- Doc 37 - Explanatory note on the provisions of the S106 Agreement.
- Doc 38 - Note on CIL compliance.
- Doc 39 - S106 Education Contribution.
- Doc 40 - Greenhill Action Group Closing Submissions.
- Doc 41 - LPA Closing Submissions.
- Doc 42 - Applicants' Closing Submissions.
- Doc 43 - Technical Note Bridge & Barge Movements 7 & 8 August.
- Doc 44 - Statement of Common Ground Vehicular Swing Bridge and New Pedestrian Bridge.
- Doc 45 - Note of Review of Piling Works for the swing bridge.
- Doc 46 - Statement of Common Ground, Agreed Position Statement between LPA and Applicants regarding the extent of adoption of Oakwood Drive.
- Doc 47 - Note of Oakwood Drive adoption and Counsels' opinions.
- Doc 48 - S106 Agreement

## **PROOFS OF EVIDENCE SUBMITTED BY THE APPLICANTS**

### *Highways – Mrs France.*

- Doc 49 - Summary Proof of Evidence.
- Doc 50 - Proof of Evidence
- Doc 51 - Appendices A to F.
- Doc 52 - Appendices G to Q.
- Doc 53 - Appendices R to BB.
- Doc 54 - Rebuttal Proof.
- Doc 55 - Rebuttal Appendices A to X.

### *Heritage – Mr Brown.*

- Doc 56 - Summary Proof of Evidence.
- Doc 57 - Proof of Evidence.
- Doc 58 - Appendices ANB1 to ANB6.

### *Housing Need and Supply – Mr Brook*

- Doc 59 - Summary Proof of Evidence.
- Doc 60 - Proof of Evidence.
- Doc 61 - Appendices 1 to 15.

### *Planning – Mr Sadler*

- Doc 62 - Summary Proof of Evidence.
- Doc 63 - Proof of Evidence.
- Doc 64 - Appendices SS1 to SS14.

### Written evidence submitted by the Applicants

### *Air Quality, Noise & Ecology – Mr Gill.*

- Doc 65 - Proof of Evidence.

*Design & Master Plan – Mr Holmes-Smith*

- Doc 66 - Summary Proof of Evidence.
- Doc 67 - Proof of Evidence.
- Doc 68 - Appendices A to L.

*Landscape & Visual Impact – Mr Robinson.*

- Doc 69 - Summary Proof of Evidence.
- Doc 70 - Proof of Evidence.
- Doc 71 - Appendices 1 to 9.

*Swing Bridges, Design & Operation*

*Mr Williams*

- Doc 72 - Summary Proof of Evidence.
- Doc 73 - Proof of Evidence.
- Doc 74 - Appendices 1 to 9 and Figures 1 to 12.

*Mr Clark*

- Doc 75 - Summary Proof of Evidence.
- Doc 76 - Proof of Evidence.
- Doc 77 - Appendices A to J.

**PROOFS OF EVIDENCE SUBMITTED BY THE LOCAL PLANNING AUTHORITY**

*Highways – Mr Rowley*

- Doc 78 - Proof of Evidence.

*Planning - Mrs Tiplady*

- Doc 79 - Proof of Evidence.

**PROOFS OF EVIDENCE SUBMITTED BY THE GREENHILL ACTION GROUP**

*Context – Mr Brown.*

- Doc 80 - Proof of Evidence.

*Planning – Mr Nicholls.*

- Doc 81 - Summary Proof of Evidence.
- Doc 82 - Proof of Evidence
- Doc 83 - Appendices 1 to 6.

*Highways – Mr Lowe*

- Doc 84 - Summary Proof of Evidence.
- Doc 85 - Proof of Evidence.
- Doc 86 - Appendices JL1 to JL13.
- Doc 87 - Rebuttal Proof of Evidence.
- Doc 88 - Appendices JLS1 to JLS5.

## DOCUMENTS SUBMITTED BY INTERESTED PERSONS

- Doc 89 - Mr Meares.
- Doc 90 - Mr Plumbe.
- Doc 91 - Mr Kunz.
- Doc 92 - Mr Pincbeck
- Doc 93 - Mr Cahill
- Doc 94 - Mrs Fleming.
- Doc 95 - Mr Knight.
- Doc 96 - Dr Morley.
- Doc 97 - Cllr. Heseltine.
- Doc 98 - Cllr. Pennington
- Doc 99 - Cllr Shaw.
- Doc 100 - Mr Harding.
- Doc 101 - Mrs Collins
- Doc 102 - Mr North
- Doc 103 - Mr Cook, Airedale Boat Club.
- Doc 104 - Mrs Payn, Crossflatts Village Society.
- Doc 105 - Mrs Stead, Bradford Urban Wildlife Group.
- Doc 106 - Dr. Findlay, Micklethwaite Village Society & Bradford Civic Trust.
- Doc 107 - Mr Butler.

## CORE DOCUMENTS

### *Application Documents*

- CD1 Rule 6 Statement – Local Planning Authority
- CD1A Rule 6 Statement – Applicants
- CD1B Rule 6 Statement – Greenhill Action Group
- CD1C List of application documents and drawings
- CD2 Note of Inspector’s Pre-Inquiry Meeting
- CD3 Statement of Common Ground including Agreed Highways Statement and Agreed Housing Statement plus Appendices
- CD3A Comments on Statement of Common Ground – Greenhill Action Group CD3B Report on Agreed Highways Statement – Greenhill Action Group
- CD4 Report and Recommendation of the Assistant Director (Planning, Transportation and Highways) to the Regulatory and Appeals Committee
- CD5 Regulatory and Appeals Committee – Minutes 19 June 2014
- CD6 Secretary of State’s Article 25 Holding Direction
- CD7 Secretary of State’s Call-In Letter
- CD8 Inspector’s Report of 2012 Section 78 Inquiry (IR)
- CD9 Secretary of State’s First Decision Letter (1 DL) (19 July 2012) and High Court Consent Order (30 October 2012)
- CD10 Secretary of State’s Second Decision Letter (2 DL) (19 June 2013) and High Court Consent Order (7 July 2014)
- CD11 Report of the Assistant Director (Planning, Transportation and Highways) to the Meeting of the Executive
- CD12 Replacement Unitary Development Plan 2005 – Saving Direction and Schedule from Government Office 2008
- CD13 Report of the Assistant Director (Planning, Transportation and Highways) to the Meeting of the Regulatory and Appeals Committee
- CD14 Counsel’s Opinion regarding access/title issues for Oakwood Drive
- CD15 Inquiry Drawings Folder

### *Local Planning Policy*

- CD16 Replacement Unitary Development Plan 2005: Inspector's Letter and Report – S/H2.10: Sty Lane (SOM/S/OS1/1 and SOM/S/GB1/1)
- CD17 Replacement Unitary Development Plan 2005
  - a) Main Report
  - b) Shipley Constituency Area Report
  - c) Shipley Constituency Area (North Sheet) Proposals Map and Key
  - d) Location Strategy Map
- CD18 Core Strategy DPD – Further Issues and Options
- CD19 Core Strategy DPD – Further Engagement Draft [extracts]
- CD20 Core Strategy DPD – Publication Draft [extracts]

### *Highways and Transportation*

- CD21 TA 22/81 – Vehicle Speed Measurement of All Purpose Roads
- CD22 TD 42/95 – Geometric Design of Major/Minor Priority Junctions
- CD23 Guidelines for Planning for Public Transport in Developments (IHT) [extracts]
- CD24 Guidelines for Providing for Journeys on Foot (IHT) [extracts]
- CD25 Manual for Streets (DoT/CLG) [extracts]
- CD26 Manual for Streets 2 – Wider Application of the Principles (IHT) [extracts]
- CD27 Planning for Walking (IHT) [extracts]
- CD28 Town and Country Planning (General Permitted Development) (England) Order 2015 [extract Schedule 2, Part 8 – Transport Related Development]

### *Landscape, Design and Place*

- CD29 Building for Life 12 – The Sign of a Good Place to Live (The Building for Life Partnership CABE at the Design Council, Design for Homes and the House Builders Federation with Nottingham Trent University)
- CD30 Guidelines for Landscape and Visual Impact Assessment, Third Edition (The Landscape Institute and Institute of Environmental Management and Assessment)
- CD31 Landscape Character Assessment Guidance for England and Scotland (The Countryside Agency and Scottish Natural Heritage)
- CD32 Landscape Character SPD: Introduction and Methodology
- CD33 Landscape Character Assessment SPD: Airedale (Volume 1)

### *Heritage and Conservation*

- CD34 The Leeds and Liverpool Canal Conservation Area Assessment [extracts]
- CD35 Historic Environment Good Practice Advice in Planning – Note 2: Managing Significance in Decision Taking in the Historic Environment
- CD36 Micklethwaite Conservation Area Appraisal
- CD37 Relevant case-law:
  - a) Barnwell Manor Wind Energy Limited v East Northamptonshire District Council & Others [2014] EWCA Civ 137 (18 February 2014)
  - b) R (on the application of The Forge Field Society) v West Kent Housing Association and Another [2014] EWHC 1895 (Admin) (12 June 2014)
  - c) Bedford Borough Council v Secretary of State for Communities and Local Government [2013] EWHC 2847 (Admin) (26 July 2013)
- CD38 Historic Environment Good Practice Advice in Planning – Note 3: The Setting of Heritage Assets

### *Housing*

- CD39 Airedale Corridors – A Masterplan and Strategy for Airedale [extracts]



- CD40 City of Bradford Strategic Housing Market Assessment 2010, Main Report
- CD41 'Planning for Growth' – Ministerial Statement of Greg Clark, Minister of State for Decentralisation
- CD42 "Laying the Foundations – A Housing Strategy for England"
- CD43 City of Bradford Strategic Housing Market Assessment 2013 [extracts]
- CD44 City of Bradford Strategic Housing Land Availability Assessment 2015, Second Update [extracts]

*Proofs of Evidence (2012 Inquiry)*

- CD45 Highways and Transportation – Dr K Fox
- CD46 Highways and Transportation – Miss A J France
- CD47 Engineering – Mr J Clark
- CD48 Engineering – Mr D J Williams
- CD49 Landscape, Design and Place – Mr R Holmes-Smith
- CD50 Landscape, Design and Place – Mr T Robinson
- CD51 Heritage and Conservation – Mr A N Brown
- CD52 Housing – Mr C A Brook
- CD53 Planning – Mr S Sadler

*National Policy Documents*

- CD54 National Planning Policy Framework
- CD55 National Planning Practice Guidance [extracts]
- CD56 ES Information Note regarding Compliance and Mitigation

*Section 106 Agreement and Conditions*

- CD57 Section 106 Agreement
- CD58 Agreed List of Conditions
- CD59 Community Infrastructure Levy – Compliance Note

*Pre-Application Documents*

- CD60 15/02674/PMJ Pre-Application Enquiry Advice Letter of LPA regarding 15/02674/PMJ Pedestrian Bridge Options Proposals
- CD61 Note on Costs for Pedestrian Bridge (Prepared by Mason & Clark Associates Engineering)
- CD62 Screening Letter (Reference 13/04275/SCO)
- CD63 Correspondence from EH in relation to potential 'lime kilns'



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.