



Department for  
Communities and  
Local Government

19 June 2013

Mr Robert Moore  
Walker Morris Solicitors  
Kings Court  
12 King Street  
Leeds  
LS1 2HL

Our Ref: APP/W4705/A/11/2161990  
APP/W4705/A/11/2162739  
APP/W4705/E/11/2162736

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
(SECTIONS 20 and 74)  
APPEALS BY REDROW HOMES (YORKSHIRE) LTD AND BELLWAY HOMES LTD  
(YORKSHIRE DIVISION).  
STY LANE/MICKLETHWAITE LANE, CROSSFLATTS/MICKLETHWAITE,  
BINGLEY, WEST YORKSHIRE  
APPLICATION REFS: 11/01203/MAO, 11/03769/FUL, 11/03775/CAC**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Richard Clegg BA(Hons) DMS MRTPI, who held a public local inquiry which opened on 21 February 2012, into your clients' appeals under section 78 of the Town and Country Planning Act 1990 (appeals A and B) and sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (appeal C) for:

**A.** the erection of some 400 dwellings, a replacement vehicular and pedestrian swing bridge over the Leeds-Liverpool Canal, provision of new accesses off Sty Lane and Micklethwaite Lane, emergency and limited access off Oakwood Drive, pedestrian and cycle access to Fairfax Road, off-site highway improvements, laying out of public open space, and landscaping, in accordance with planning application ref 11/01203/MAO, dated 16 March 2011.

**B.** a replacement vehicular and pedestrian swing bridge and ancillary works, in accordance with planning application ref 11/03769/FUL, dated 12 August 2011.

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- C.** the removal of the existing vehicular swing bridge and ancillary works, in accordance with application ref 11/03775/CAC, dated 12 August 2011.
2. Appeal A was recovered for the Secretary of State's determination on 19 October 2011, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal for residential development of over 150 units or on sites of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeals B and C were recovered because they are most efficiently and effectively decided with appeal A.
  3. The Secretary of State issued his decision in respect of the above appeals in his letter dated 19 July 2012. That decision letter was the subject of an application to the High Court and was subsequently quashed by order of the Court dated 30 October 2012 because of an error of fact. The appeals therefore fall to be reconsidered anew by the Secretary of State.

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

4. The Inspector recommended that the appeals be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's recommendation and has decided that the appeals should be dismissed and planning permission refused. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to the IR.

### **Matters arising since 19 July 2012**

5. Following the quashing of his decision letter of 19 July 2012, the Secretary of State issued a letter on 6 December 2012 under Rule 19 of the Town and Country Planning (Inquiries Procedure) (England) Rules 2000 to all interested parties setting out a written statement of the matters with respect to which further representations were invited for the purposes of his re-determination of the appeals. These matters were:
  - (i) the proposed permanent road alignment;
  - (ii) any material change in circumstances, fact or policy, which may have arisen since his decision letter of 19 July 2012 was issued and which the parties considered relevant to his re-determination of the appeals.
6. Alternatively, interested parties could ask for the inquiry to be reopened.
7. On 25 January 2013, the Secretary of State circulated the responses he had received to his letter of 6 December 2012. On 5 March 2013, he wrote to the parties to state that he was of the view, along with the majority of interested parties, that there were no substantive issues which required the Inquiry to be reopened and that he was in a position to re-determine the appeals on the basis of all the evidence and representations before him. At the same time, copies of all the representations received in response to his letter of 25 January were made available on request.

8. The responses to the Secretary of State's letters of 6 December, 25 January and 5 March are listed at Annex A below. The Secretary of State has, along with the Inspector's report and the inquiry evidence, given all these representations very careful consideration in his re-determination of the appeals. Representations received after 5 March were not circulated to interested parties because the Secretary of State was satisfied that they did not raise any matters that would require him to refer back to parties prior to reaching his decision. Copies of all the representations referred to are not attached to this letter, but can be made available to interested parties on written request to the address at the foot of the first page of this letter.

### **Procedural Matters**

9. The Secretary of State notes those amendments made to the proposal as detailed in IR5 and IR9-10 and has determined the appeals on that basis. He does not consider that there has been any prejudice to any party in doing so.
10. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and further information submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Like the Inspector (IR12), he considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.

### **Policy considerations**

11. In determining the appeals, 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, following the revocation of the Yorkshire and Humber Regional Strategy (RS) on 22 February 2013, the development plan comprises the saved policies of the Replacement UDP for the Bradford District. The Secretary of State gives no weight to the policies in the revoked RS. He notes that none of the parties who made representations in response to his invitation to comment considered that the revocation of the RS had led to a material change in circumstances. He considers that the development plan policies most relevant to this case are those set out at IR32-37.
12. Material considerations which the Secretary of State has taken into account include those documents listed at IR40-42. Other material considerations include: The Planning System: *General Principles*; Circular 11/95: *The Use of Conditions in Planning Permission*; the Community Infrastructure Levy (CIL) Regulations (2010 and 2011); and, the Ministerial Statement "Planning for Growth" (2011).
13. The emerging Core Strategy (IR38-39) is a material consideration, but as it has yet to be adopted and is still subject to change, the Secretary of State affords it little weight.
14. In deciding these appeals, the Secretary of State has paid special attention to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest they possess, as required under the provisions of sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act

1990. As the proposal would be partly situated within the Leeds and Liverpool Canal Conservation Area and close to the Micklethwaite Conservation Area, the Secretary of State has also had regard to the desirability of preserving and enhancing the character or appearance of these areas, as required by section 72 of the same Act.

### **Main issues**

15. The Secretary of State agrees with the Inspector that the main considerations are those set out in IR156.

### **Sustainability**

16. The Secretary of State agrees with the Inspector's reasoning and conclusions on sustainability as set out in IR157-166. He agrees that 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 development which would comply with Policy UDP1 of the UDP (IR166).

### **Highway safety and the movement of road users**

17. The Secretary of State has carefully considered the inquiry evidence and the Inspector's reasoning and conclusions on highway safety and the movement of road users. He has also carefully considered the comments of the parties who made representations on these matters in response to his invitation to comment.

### ***Trip Rates***

18. For the reasons set out in IR167-172, the Secretary of State agrees with the Inspector that the use of average trip rates, as set out in the highways statement of common ground, is appropriate in this case (IR172).

### ***The replacement swing bridge***

19. The Secretary of State notes that the Greenhill Action Group acknowledges that it did not mount a substantive challenge at the inquiry to the technical evidence of the appellants concerning the operation of the new bridge (IR175). He agrees with the Inspector that the appellants' figures concerning road closures are subject to a number of assumptions, particularly concerning the proportion of incidents in which a bridge would be left in the road closed position (IR177). He also agrees with the Inspector that it is not clear that the information in the call-out logs provides a comprehensive record of the number and duration of road closures (IR177). He notes the representations of the Greenhill Action Group, in response to his invitation to comment, that it is likely to be much longer than an hour before Oakwood Drive is opened for use as a temporary route.
20. For the reasons in IR174-178, the Secretary of State agrees with the Inspector that a period of one hour would be the minimum time before the alternative route for traffic via Oakwood Drive would be brought into use (IR178).
21. Having considered all the inquiry evidence and the Inspector's report anew, and having considered the comments of the parties who made representations in response to his invitation to comment, the Secretary of State considers that the length of time during which it would be necessary for traffic to use Micklethwaite Lane and Carr Lane, from the reporting of a bridge breakdown until Oakwood Drive is opened for use as a temporary route, is likely to be at least 1 hour and much longer on occasions.

*Effect on the highway network when the bridge is operational*

22. For the reasons set out in IR179-183, the Secretary of State agrees with the Inspector that the proposals would not adversely affect the movement of road users and highway safety when the proposed swing bridge is operational (IR183).

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

23. For the reasons in IR184-186, the Secretary of State, like the Inspector, does not consider that appeal proposal A would 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 (IR186).

*Effect on the highway network when the swing bridge is closed to traffic and before the emergency access is in use*

24. The Secretary of State agrees with the Inspector that, were incidents necessitating closure of the bridge to occur, this would involve the reassignment of the majority of traffic movements to and from the greater part of site A (IR194). He notes that two-way traffic movements from this part of the site have been calculated as 242 in the am peak and 243 in the pm peak; and that inward traffic would not be solely reliant on the route through Micklethwaite, and could use Greenhill Lane/ Sty Lane (IR194). However, he also agrees with the Inspector that 175 and 94 movements in the am and pm peaks respectively would be departures which would have no alternative route to Micklethwaite Lane and Carr Lane prior to the opening of the emergency access, and that the majority of these vehicles would have previously travelled south towards Keighley Road (IR194).
25. For the reasons in IR187-193, he agrees with the Inspector 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 (IR194). He agrees with the Inspector that in this circumstance proposal A would conflict with Policies TM2 and TM19A of the UDP, and that it would also fail to comply with the policy in paragraph 32 of the Framework that safe and suitable access to a development site should be achieved for all people (IR194).

*Conclusions on highway safety and the movement of road users*

26. For the reasons in IR167-202, the Secretary of State agrees with the Inspector that when the swing bridge or the emergency access is operational the appeal proposals would not unacceptably reduce highway safety or interfere with the movement of road users (IR203). However, he shares the Inspector's concerns at the effect of traffic movement on Micklethwaite Lane and Carr Lane during the intervening period between closure of the road and opening of the emergency access. He agrees with the Inspector's conclusion in respect of Appeal A that, given the constrained nature of this route, its use by traffic from the greater part of the residential development would have a severe effect on highway safety and the movement of road users (IR203).
27. The Secretary of State considers that the length of time during which it would be necessary for traffic to use Micklethwaite Lane and Carr Lane as a temporary route is likely to be at least 1 hour and much longer on occasions. He has significant concerns about the consequent effect on highway safety and the movement of

road users on this route during such periods and he gives significant weight to this consideration. He considers that this factor weighs heavily against the proposal.

#### Character and appearance and recreational value of the canal

28. The Secretary of State agrees with the Inspector's reasoning and conclusions on character and appearance as set out in IR204-221. He agrees that the proposal would not materially alter the overall relationship of the rural landscape and the built-up areas and would not be unacceptably intrusive in the landscape. He agrees that it would, however, impinge on the setting of the Leeds and Liverpool Canal Conservation Area and to a lesser extent that of Micklethwaite Conservation Area, and would have a minor adverse effect on the stone chambers near the swing bridge, a moderate adverse effect on the earthworks in the vicinity of Laythorpe Farmhouse, and a major adverse effect on the setting of the listed farmhouse itself. He agrees that overall proposals A and B would detract to an extent from the character and appearance of the area, and that they would conflict with Policies BH7 and BH4A of the UDP which seek to safeguard conservation areas and the setting of listed buildings (IR221).
29. For the reasons given in IR222-223, the Secretary of State agrees with the Inspector that proposal A would not adversely affect the recreational value of the canal (IR223).

#### Proposal A and policies in the development plan

30. For the reasons given in IR224-229, the Secretary of State agrees with the Inspector that, notwithstanding the demise of the residential allocation at Sty Lane, proposal A would be consistent with policies in the development plan which promote sustainable development, but that it would not be fully consistent with the development plan, due to certain conflict with policies concerning highway safety and the movement of road users and heritage assets (IR229). He does not consider that the revocation of the RS changes his conclusion on this matter.

#### Green Belt

31. The Secretary of State notes that part of appeal site A is within the Green Belt but that the only work proposed on this part of the site is the realignment of the western end of Sty Lane (IR230). For the reasons in IR231, the Secretary of State agrees with the Inspector that realignment of this short length of road is an engineering operation which would have no additional impact on openness, and would not conflict with any of the five purposes for including land in the Green Belt, set out in paragraph 80 of the Framework. He therefore agrees with the Inspector that this part of proposal A would not constitute inappropriate development in the Green Belt (IR231).
32. For the reasons in IR232, the Secretary of State agrees with the Inspector that, whilst it must be more likely that preventing housing development on site A would increase the need to release land elsewhere, it does not necessarily mean that this would occur in the Green Belt. Like the Inspector, the Secretary of State gives only limited weight to this consideration (IR232).

#### Other considerations

33. The Secretary of State agrees with the Inspector's reasoning and conclusions on those other considerations set out in IR233-239. He agrees that there is a significant shortfall of available housing land in Bradford, and appeal proposal A

would make an important contribution to addressing this situation (IR233); the proposals would not damage the integrity of the Leeds and Liverpool Canal as a site of ecological/geological importance (IR234); the proposed housing development would not pose a threat to protected trees (IR235); a negatively-worded condition could appropriately be imposed to secure access into site A from Oakwood Drive (IR238); and that the economic benefits, including job creation, the new homes bonus, and expenditure in the local economy, carry significant weight (IR239).

34. The Secretary of State does not consider that the revocation of the RS changes his conclusion on the shortfall of available housing land in Bradford. Paragraph 49 of the Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. It also makes clear that relevant policies for the supply of housing land should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. This is the situation in Bradford. Consequently, the Secretary of State considers that the test in paragraph 14 of the Framework applies.

#### Planning conditions and obligations

35. The Secretary of State agrees with the Inspector's reasoning and conclusions on planning conditions and obligations as set out in IR148-154 and IR240-246. Notwithstanding the benefits provided by the conditions and obligations, he does not consider that they overcome his reasons for dismissing the appeal.

#### Overall Conclusion

36. The Secretary of State concludes that 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 development. There is a significant shortfall of available housing land in Bradford, and appeal proposal A would make an important contribution to addressing this situation. He considers that the economic benefits of Appeal A, including job creation, and expenditure in the local economy, carry significant weight in the determination of this appeal.
37. The Secretary of State shares the Inspector's concerns about the effect of traffic movement on Micklethwaite Lane and Carr Lane during the intervening period between closure of the road and opening of the emergency access. He agrees with the Inspector's conclusion that, given the constrained nature of this route, its use by traffic from the greater part of the residential development would have a severe effect on highway safety and the movement of road users.
38. The Secretary of State considers that the length of time during which it would be necessary for traffic to use Micklethwaite Lane and Carr Lane as a temporary route is likely to be at least 1 hour and much longer on occasions. He has significant concerns about the consequent effect on highway safety and the movement of road users and he gives significant weight to this consideration. He considers that this factor weighs significantly against the proposal.
39. Having weighed up all of the relevant material considerations, the Secretary of State considers that the factors in favour of Appeal A could have outweighed the shortcomings of the proposal, but for the effect on highway safety. This leads him

to conclude that the adverse impact of granting permission would significantly and demonstrably outweigh the benefits in this case.

40. The Secretary of State considers that Appeal B 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. He considers that these adverse effects would be outweighed by the public benefits of a wider bridge, incorporating a footway. He agrees that conservation area consent for removal of the existing swing bridge should be dependant on permission being forthcoming for a suitable replacement. In the light of the above conclusions he concludes that it would be inappropriate for appeals B and C to succeed (IR252 and 253).

### **Formal Decision**

41. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your clients' appeals and refuses planning permission for:-

**A** The erection of 420-440 dwellings, a replacement vehicular and pedestrian swing bridge over the Leeds and Liverpool Canal, 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, laying out of public open space and landscaping, in accordance with planning application ref 11/01203/MAO (as amended), dated 16 March 2011.

**B** a replacement vehicular and pedestrian swing bridge and ancillary works, in accordance with planning application ref 11/03769/FUL, dated 12 August 2011.

**C** the removal of the existing vehicular swing bridge and ancillary works, in accordance with application ref 11/03775/CAC, dated 12 August 2011.

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

42. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

43. A copy of this letter has been sent to Bradford Metropolitan District Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours faithfully

**Richard Watson**

Authorised by the Secretary of State  
to sign in that behalf



**Post Inquiry correspondence following the Secretary of State's letter dated 6 December 2012**

<b>Name / Organisation</b>	<b>Date</b>
Julian Jackson, City of Bradford Metropolitan District Council	18/12/12
Mrs B Eakin	20/12/12
Terry Brown	20/12/12
Richard Butler	31/12/12
Mrs Susan Stead, Bradford Urban Wildlife Group	11/01/13
John Findley, Bingley Civic Trust	11/01/13
Mrs Katherine Watson	11/01/13
Richard Kunz	12/01/13
Janet E Payn, Crossflatts Village Society	14/01/13
Diane & Alan Dean	14/01/13
Mrs Maggie Flemming	15/01/13
Cobbetts (enclosing responses from WYG Transport Planning on behalf of Greenhill Action Group (dated 11/01/13); Richard Butler on behalf of Greenhill Action Group and Micklethwaite Village Society (dated 14/01/13), and Richard Pinchbeck (Greenhill Action Group*))	15/01/13
Walker Morris (on behalf of appellants)	17/01/13
Martyn Coy, Canal & River Trust	17/01/13

\* replacement documents submitted 16/01/13

**Post Inquiry correspondence following the Secretary of State's letter dated 25 January 2013**

<b>Name / Organisation</b>	<b>Date</b>
Janet E Payn, Crossflatts Village Society	06/02/13
Mrs Katherine Watson	08/02/13
Graham Hay, Micklethwaite Village Society	10/02/13
Fiona Tiplady, City of Bradford Metropolitan District Council	11/02/13
Richard Kunz	11/02/13
DWF (on behalf of Greenhill Action Group)	12/02/13
Walker Morris (on behalf of appellants)	12/02/13
Sanderson Associates (on behalf of appellants)	12/02/13

**Post Inquiry correspondence following the Secretary of State's letter dated 5 March 2013 (not circulated)**

<b>Name / Organisation</b>	<b>Date</b>
Richard Butler (on behalf of Greenhill Action Group and Micklethwaite Village Society)	23/03/13
Richard Pinchbeck	24/03/13



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

**by Richard Clegg BA(Hons) DMS MRTPI**

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

**Date 21 May 2012**

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**  
**APPEALS BY**  
**REDROW HOMES (YORKSHIRE) LTD AND**  
**BELLWAY HOMES LTD (YORKSHIRE DIVISION)**

Inquiry opened on 21 February 2012

Sty Lane/ Micklethwaite Lane, Crossflatts/ Micklethwaite, Bingley, West Yorkshire

Appeal Refs: APP/W4705/A/11/2161990, APP/W4705/A/11/2162739, APP/W4705/E/11/2162736

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### **Appeal A: APP/W4705/A/11/2161990**

#### **Sty Lane/ Micklethwaite Lane, Crossflatts/ Micklethwaite, Bingley, West Yorkshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Redrow Homes (Yorkshire) Ltd and Bellway Homes Ltd (Yorkshire Division) against the decision of the City of Bradford Metropolitan District Council.
- The application Ref 11/01203/MAO, dated 16 March 2011, was refused by notice dated 26 September 2011.
- The development proposed is described as 'the erection of some 400 dwellings, a replacement vehicular and pedestrian swing bridge over the Leeds-Liverpool Canal, provision of new accesses off Sty Lane and Micklethwaite Lane, emergency and limited access off Oakwood Drive, pedestrian and cycle access to Fairfax Road, off-site highway improvements, laying out of public open space, and landscaping'.

**Summary of Recommendation: The appeal be dismissed.**

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### **Appeal B: APP/W4705/A/11/2162739**

#### **Micklethwaite Lane, Crossflatts/ Micklethwaite, Bingley, West Yorkshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Redrow Homes (Yorkshire) Ltd and Bellway Homes Ltd (Yorkshire Division) against the City of Bradford Metropolitan District Council.
- The application Ref 11/03769/FUL is dated 12 August 2011.
- The development proposed is a replacement vehicular and pedestrian swing bridge and ancillary works.

**Summary of Recommendation: The appeal be dismissed, and that planning permission be refused.**

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### **Appeal C: APP/W4705/E/11/2162736**

#### **Micklethwaite Lane, Crossflatts/ Micklethwaite, Bingley, West Yorkshire**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for conservation area consent.
- The appeal is made by Redrow Homes (Yorkshire) Ltd and Bellway Homes Ltd (Yorkshire Division) against the City of Bradford Metropolitan District Council.
- The application Ref 11/03775/CAC is dated 12 August 2011.
- The demolition proposed is the removal of the existing vehicular swing bridge and ancillary works.

**Summary of Recommendation: The appeal be dismissed, and that conservation area consent be refused.**

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### **Procedural Matters**

1. The inquiry sat for eight days: 21-24 and 28-29 February, and 1 and 6 March 2012. A programme of site visits took place on 2 March<sup>1</sup>. During the inquiry, the DVD submitted by Mr Pinchbeck and showing the operation of Micklethwaite Bridge was viewed (Document O9/2). A pre-inquiry meeting had been held previously on 1 December 2011, and a note of the meeting is at Document G1.

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<sup>1</sup> The route detailed in Document G13 and on Plan G formed the basis for the programme of site visits.

2. The appeals were recovered for decisions by the Secretary of State for Communities and Local Government by a letter dated 19 October 2011. The reason for recovery in respect of appeal A was that it involves a proposal for residential development of over 150 units or on sites of over 5ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeals B and C were recovered because they are most efficiently and effectively decided with appeal A.
3. Greenhill Action Group Ltd (GAG) served a statement of case in accordance with Rule 6(6) of The Town and Country Planning (Inquiries Procedure) (England) Rules 2000, and it took a full part in the inquiry proceedings.
4. On the application form for proposal A, the location of that site is given as Sty Lane/ Micklethwaite Lane, Micklethwaite, Bingley. On the form for proposal B the location of that site is given as Micklethwaite Lane, Bingley. The site address details were not completed on the form for proposal C, but the covering letter refers to Micklethwaite Lane, Micklethwaite, Bingley. It was agreed at the pre-inquiry meeting that the sites should be identified as being in Crossflatts/ Micklethwaite, Bingley, and I have included this in the appeal details above.
5. Proposal A includes a point of access for a pedestrian bridge near Canal Road. It is more clearly described as: *The erection of 420-440 dwellings, a replacement vehicular and pedestrian swing bridge over the Leeds and Liverpool Canal, 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, laying out of public open space and landscaping.* This application was submitted in outline form with approval sought for access at this stage. However, whilst it includes details of the access arrangements from Sty Lane and Micklethwaite Lane, the only details for determination concerning Oakwood Drive relate to its junction with Lady Lane and the other access points are only shown on illustrative plans. I have, therefore, considered the appeal on the basis of the description set out above, together with access details at Sty Lane and Micklethwaite Lane. The principle of gaining access from all of the points identified does, of course, form part of the appeal proposal.
6. Planning permission was refused in respect of proposal A for the following reasons:
  1. *The proposed development would involve the use of an emergency access route to and from the site using Oakwood Drive which is considered to comprise an inadequate road layout. It is considered that the use of this route is unsatisfactory and therefore the proposal would be prejudicial to highway safety and contrary to Policies TM2 and TM19A of the Council's Replacement Unitary Development Plan.*
  2. *The proposed development would involve the use of a replacement swing bridge over the Leeds and Liverpool Canal as the principal means of vehicular access to the site. It is considered that as such this type of bridge would be inadequate and impractical as a means of vehicular access to the site, leading to conditions prejudicial to highway safety and contrary to Policies TM2 and TM19A of the Council's Replacement Unitary Development Plan.*

7. Following the submission of appeals B and C, the applications were considered by the Council's Area Planning Panel (Shipley) on 18 January 2012. The Panel resolved that, had it been in a position to determine the applications, it would have refused planning permission and conservation area consent for the following reasons:

#### Proposal B

1. *The proposed development would involve the use of an emergency access route to and from the site using Oakwood Drive which is considered to comprise an inadequate road layout. It is considered that the use of this route is unsatisfactory and therefore the proposal would be prejudicial to highway safety and contrary to Policies TM2 and TM19A of the Replacement Unitary Development Plan.*
2. *The proposed development would involve the use of a replacement swing bridge over the Leeds and Liverpool Canal as the principal means of vehicular access to the site. It is considered that as such this type of bridge would be inadequate and impractical as a means of vehicular access to the site, leading to conditions prejudicial to highway safety and contrary to Policies TM2 and TM19A of the Replacement Unitary Development Plan.*
3. *It is considered that the replacement bridge would not make a positive contribution to the character of the Leeds and Liverpool Canal Conservation Area by reason of its design, massing and realignment; as such, the proposed bridge would fail to enhance the conservation area and is considered to be contrary to Policies BH7, BH20, UR3 and D1 of the Replacement Unitary Development Plan.*
4. *It is considered that the alignment of the new swing bridge will erode the character of an existing open area to the detriment of the character of the Leeds and Liverpool Canal Conservation Area, the adjacent listed and unlisted buildings and local wildlife; as such the proposal is considered to be contrary to Policies BH7, BH10 and NE10 of the Replacement Unitary Development Plan.*
5. *The proposed diversion of the existing traffic route along Micklethwaite Lane would be unacceptable in that it would create highway safety issues for vehicles associated with Airedale Mills and the adjacent houses and premises; as such the proposal is considered to be contrary to Policies TM2 and TM19A of the Replacement Unitary Development Plan.*

#### Proposal C

1. *The existing bridge is of historic interest in terms of its alignment, character and narrowness and as such, it is considered that its demolition would unduly affect the character of the Conservation Area and would be contrary to Policy BH9 of the Replacement Unitary Development Plan.*
8. Prior to the inquiry, the Council resolved that it would not be pursuing reasons Nos 3 and 4 concerning heritage implications in respect of appeal B, and that it would not be pursuing the sole reason, also relating to heritage implications, in respect of appeal C (Document CBMDC4). In the light of Dr Fox's rebuttal evidence for the appellants (Document RB9/1), the Council had also reviewed its position concerning the use of the swing bridge as the principal means of access

to the proposed housing site. It acknowledged that its assessment had previously over-stated the effect on traffic, and resolved, on the first day of the inquiry, not to pursue reasons No 2 in respect of appeals A and B (Document CBMDC6).

9. In November 2011, following the refusal of application A, the appellants submitted a revised drawing of the temporary through road between the swing bridge and Micklethwaite Lane (Plan B4) in connection with all three appeals. This shows an increase in the width of the road from 4.8m to 6.6m. A revised illustrative plan for the swing bridge and the area immediately to the north and north-east (referred to as Laythorpe Green) was submitted in respect of appeals B and C in December (Plan E). This shows that the bridge would turn clockwise when closing to road vehicles, which is consistent with the details included with the proposed road alignment on Plan C, submitted for approval as part of all three schemes. Plan E also shows adjustments to the position of the realigned road and to the arrangement at the end of the existing alignment of Micklethwaite Lane, and it would supersede the illustrative plan for the area around the swing bridge (Plan D15) in addition to the earlier plan for Laythorpe Green (Plan D14). These revised plans were included with applications B and C when they were considered by the Area Planning Panel, and as such they form part of those appeal proposals. Insofar as appeal A is concerned, they do not represent material changes to the proposal, and they would not cause prejudice to interested parties. Accordingly I have also taken them into account in considering that appeal.
10. As part of their highways evidence, the appellants put forward a revised plan for the Oakwood Drive/ Lady Lane junction, which would include extension of the visibility splays in both directions and the construction of a traffic island to the north-west of the junction on Lady Lane<sup>2</sup>. The amendment would not materially alter the access arrangements to the eastern part of site A, and both the Council and GAG indicated that they had been able to address this matter. As such, I do not consider that this amendment would cause prejudice to other parties, and I have taken it into account in considering the appeal.
11. The proposals are accompanied by a number of illustrative plans. For proposal A, these cover matters such as scale and density, and there are also illustrative plans for Laythorpe Green, the Sty Lane/ Micklethwaite Lane junction and the parameters for the pedestrian bridge. Insofar as proposals B and C are concerned, the one illustrative plan is that for Laythorpe Green. Lists of the plans put forward as part of the formal proposals and for illustrative purposes are included in Document RB39<sup>3</sup>.
12. An environmental statement accompanied application A (Documents RB15/1-3). It comprises comprehensive documents and its adequacy was not disputed by the Council or GAG. I have taken the environmental information for this proposal into account, and I am satisfied that the requirements of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 have been met.

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<sup>2</sup> The revised plan, ref 6431-007, is in the drawings section of Document RB1/2.

<sup>3</sup> The list for appeal A in Document RB39 does not include the amended plan for the Oakwood Drive/ Lady Lane junction, but it does include the illustrative plan for the swing bridge area which is inconsistent with the amended plan for Laythorpe Green.

13. A planning obligation in the form of an agreement between the Council, the appellants and British Waterways was submitted at the inquiry (Document G14). The obligation relates to the three appeals, and its provisions concern affordable housing (up to 30% of the total number of dwellings), contributions to transport measures including the footbridge, highway works, education contributions, a greenspace contribution, play equipment, the management of communal areas, phasing of proposal A, and provision of the replacement swing bridge. The appellants and the Council submitted a note (Document G4) which explains why they consider that the obligation is compliant with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CILR).
14. This report contains a description of the sites and their surroundings, an explanation of the proposals, identification of relevant planning policies, details of agreed matters, and the gist of the submissions made at the inquiry and in writing, followed by my conclusions and recommendations. Lists of appearances and inquiry documents are appended. The written closing submissions on behalf of the Council, the appellants and GAG are included as inquiry documents: in delivery they were subject to a number of detailed alterations.

### **The Sites and their Surroundings**

15. The main part of site A comprises open land on the north-east side of the Leeds and Liverpool Canal (Plan A2). It also includes short lengths of highway at the junction of Micklethwaite Lane with Sty Lane and where Micklethwaite Lane crosses the canal, together with a small parcel of land on the south-west side of the canal close to the bridge. Sites B and C are identical; they include the existing swing bridge together with adjacent land and highway (Plan B1).
16. The sites are in the Aire valley, and at the edge of the built-up area of Crossflatts, which lies on the south-west side of the Leeds and Liverpool Canal. Site A extends up to the edge of the built-up area of Bingley to the south-east and east, and Bingley town centre is about 0.9m away<sup>4</sup>. Open land extends to the north and north-west, and beyond Greenhill Lane and Lady Lane to the north-east. The land from Sty Lane to the north is designated as Green Belt in the Replacement Unitary Development Plan for the Bradford District (UDP), and a small area at the north-west corner of site A falls within the Green Belt boundary<sup>5</sup>.
17. The built-up areas of Bingley and Crossflatts in the vicinity of the appeal sites are predominantly residential in nature, and they also contain a range of facilities and services. There is residential development at Bridge Cottage and Airedale Mills, immediately to the north of the canal bridge, and this group of buildings also includes some commercial uses. Airedale House, a detached dwelling, stands on the west side of the Micklethwaite Lane/ Sty Lane junction, and on the east side of Micklethwaite Lane, and surrounded on three sides by site A, are the dwellings known as Laythorpe Cottage and Laythorpe Farmhouse. Laythorpe Farmhouse and its attached barn are included on the list of buildings of special architectural or historic interest with grade II status<sup>6</sup>. To the north-east of site A in the

<sup>4</sup> Plan A1 shows the location of site A: the distance to Bingley town centre is given in Document RB11/1 (para 2.3).

<sup>5</sup> The boundary of the Green Belt is shown on the Proposals Map for Shipley Parliamentary Constituency (North Sheet), Document CD10c.

<sup>6</sup> The plan in appendix ANB 1 of Document RB4/2 shows the location of designated heritage assets, and extracts from the list of buildings of special architectural or historic importance are in Document G9.

vicinity of Greenhill Lane is another group of residential properties, four of which are grade II listed buildings. There is also an area of woodland adjacent to this part of site A.

18. For a short distance from the canal bridge, site A extends up to the canal bank. The boundary then runs behind a line of moorings, the premises of Airedale Boat Club and an adjacent boatyard. Further along the canal in this direction, about 0.7km from the bridge, are Bingley Five Rise Locks, which are a grade I listed structure, and are described in the listing description as one of the greatest feats of engineering of the canal age (Document G9). The canal and its towpath are well-used for recreational activities (Document CD27).
19. Within the open land to the north of Sty Lane is the village of Micklethwaite. Much of the village and an area of open land around it are included in Micklethwaite Conservation Area<sup>7</sup>. The Leeds and Liverpool Canal Conservation Area covers the whole length of the canal within Bradford District. Along this stretch, the conservation area includes an area of land on the north-east side, including the group of buildings at Airedale Mills, Laythorpe Farm, and that part of the appeal sites between Laythorpe Farm and the canal. It also includes virtually all of the small parts of the appeal sites on the south-west side of the canal and adjacent to Micklethwaite Bridge.
20. Site A encompasses an area of about 16ha<sup>8</sup>. The greater part of the site is an area of agricultural grassland which lies between the canal, Micklethwaite Lane, Sty Lane and existing housing to the east. It rises from the canal to the north and north-east, and is subdivided by a series of hedgerows and generally degraded walls. This land is currently used for grazing. A carved rock, from the Bronze Age, is close to the eastern boundary (Document G12). At the southern end of the land, adjacent to Fairfax Road, a small group of four trees is covered by a tree preservation order (Document 15). The site includes Micklethwaite Bridge and a small adjacent area on the opposite side of the canal. Micklethwaite Bridge is a single track swing bridge with no footway: at the date of the site visit, the adjacent land was being used for parking in connection with a nearby construction project. On the northern side of this land, and below the canal towpath, is a series of four stone chambers.
21. Sites B and C include the swing bridge, a small area of grassland and a short stretch of Micklethwaite Lane to the north, another stretch of the road and part of the adjacent land to the south, and a section of the canal towpath on each side of the bridge.

## The Proposals

22. Proposal A would involve the construction of 420-440 dwellings on the greater part of this appeal site. The design and access statement envisages several distinct character areas (Document RB12/1), and it is intended that the development would include two greens and linear open space following the lines of existing hedgerows (Plans D3 and D8). An indicative masterplan (showing a layout for 420 dwellings) is at Plan D1.

<sup>7</sup> Document CD26 is a plan of Micklethwaite Conservation Area.

<sup>8</sup> Document RB12/1, para 7.5.



23. Vehicular access for most of the dwellings would be taken from Micklethwaite Lane. The swing bridge would be replaced with a wider bridge to accommodate two-way traffic and a footway (Plan B2), and from the north side of the canal the through route would be realigned within the site around the east side of Laythorpe Farm and following the existing line of Sty Lane back to its existing junction with Micklethwaite Lane. South of this junction, Micklethwaite Lane would continue to provide access to existing premises, and there would be no entry into the original length of Sty Lane from the junction with the realigned road as it is intended that this part of Sty Lane would become a one-way road in a westerly direction<sup>9</sup>.
24. Vehicular access for a maximum of 22 dwellings would be taken from an extension of Oakwood Drive on the eastern side of the site (Document RB1/1, para 2.4), but there would also be a link to the remainder of the site (referred to as an emergency access) to provide access on occasions when the swing bridge could not be used (Plan D12). Access for pedestrians and cyclists would be provided from Fairfax Road, and it is intended that a pedestrian bridge over the canal would be provided in the vicinity of Canal Road. Off-site highway works would involve building out the footway on Lady Lane at its junction with Oakwood Drive, together with waiting restrictions and a traffic island (Plan 6431-0007), the installation of traffic signals at the junction of Micklethwaite Lane and Keighley Road (Plan A3), and the erection of variable message signs which would provide warnings if the swing bridge were unavailable for use (Plans A5 and 6431-0007).
25. Proposal B would involve the provision of a replacement for the existing Micklethwaite Bridge. The new bridge would accommodate two-way vehicle movement and a footway. It 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. Proposal C seeks conservation area consent for removal of the existing swing bridge. Towards the end of the construction period, Micklethwaite Lane would be closed at this point for about nine weeks to allow tying in of the road realignment, removal of the existing bridge, and finishing works. During this period diversion routes would be in operation (Documents RB28, RB1/1).

## Planning History

26. Virtually all of site A was allocated as a phase 2 housing site (S/H2.10) in the UDP, which was adopted in 2005<sup>10</sup>. In May 2008, the Council applied to save specified policies of the UDP, and a saving direction was issued in September that year (Document CD5). Consistent with the Council's application, the direction did not save Policies H1 and H2, which were concerned respectively with phase 1 and phase 2 housing sites. The Council had taken the view that existing allocations were protected under Policy H4, which safeguarded housing sites for that purpose. However, a submission from a local resident in respect of another phase 2 site, argued that Policies H1 and H2 were not only concerned with phasing, but also allocation. A report was submitted to the Executive in November last year on this matter (Document CD6). It explained that Counsel's

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<sup>9</sup> The intended access arrangements are shown on Plans D11, E, C and A6.

<sup>10</sup> The allocation is shown on the Proposals Map for Shipley Parliamentary Constituency (North Sheet): it does not include the small part of site A on the south-west side of the canal, the land on the north side of the Micklethwaite Lane/ Sty Lane junction, and a small piece of land near Greenhill Wood. It does include Laythorpe Farm and additional land on the eastern side of the site at Woodside and north of Falcon Road.

opinion had been sought, and that this concurred with the submission received that, with the lapsing of Policies H1 and H2, the housing allocations in the UDP were no longer saved.

27. A previous outline planning application for some 475 dwellings was submitted in 2010. An appeal was lodged on the ground of non-determination, but this was subsequently withdrawn.

## **Planning Policy**

28. The Development Plan comprises the Regional Strategy (RS) in the form of The Yorkshire and Humber Plan (Document CD8) and the saved policies of the UDP (Document CD10a). The overall approach of the RS, set out in Policy YH1, involves managing growth and change to achieve sustainable development. Policy YH4 explains that regional cities, which include Bradford, together with sub-regional cities and towns, should be the prime focus for housing and other development in the region. In accordance with Policy YH5, principal towns should be the main local focus for housing, employment and other activities. Bingley is not identified as a principal town in the RS, but it is put forward for this status in the emerging Core Strategy (para 38, below). Similarly, Policy LCR1, which applies to the Leeds City Region, seeks, amongst other matters, to focus most growth on the regional cities of Bradford and Leeds, and the sub-regional cities and towns, and also promotes development at principal towns. Sites should be allocated by giving first priority to the re-use of previously developed land and the more effective use of existing developed areas within the relevant city or town, second priority to infill opportunities within cities and towns, and third priority to extensions to cities and towns (Policy YH7). Part B of Policy YH7 seeks a transport-orientated approach to ensure, amongst other matters, that development takes into account capacity constraints and deliverable improvements, complies with the public transport accessibility criteria, and maximises accessibility by walking and cycling.
29. The level of new housing development is the subject of Policy H1. It requires specified annual average net additions to the dwelling stock: the annual figure for Bradford is 2,700 dwellings for the period 2008-2026. Measures to manage the delivery of new housing are set out in Policy H2: they include the identification of sites to ensure a 15 year supply of housing land, including a five year supply of specific deliverable sites. Affordable housing should be provided to meet the needs of local communities (Policy H4), with targets for provision set in local development frameworks (LDFs).
30. Policy T1 aims to reduce travel demand, travel growth and congestion, encourage a shift to modes with lower environmental impacts, and improve journey time reliability. The policy also requires best use to be made of the existing highway network to address congestion and encourage modal shift. Policy ENV8 seeks to safeguard and enhance biodiversity and geological heritage. In similar vein, Policies ENV9 and ENV10 are concerned respectively with safeguarding and enhancing the historic environment and landscapes that contribute to the distinctive character of the Region.
31. The Localism Act provides for the revocation of regional strategies. The effect of revocation has been subject to environmental assessment, which has been the subject of consultation, but revocation orders have yet to be laid before

Parliament. For the time being, therefore, the RS remains part of the Development Plan and carries weight accordingly.

32. In the UDP, Policy UDP1 promotes sustainable patterns of development by, amongst other matters, focusing on the urban areas, concentrating development where there are good transport links and in areas with proximity to facilities and services. Development should also contribute to the social, economic and environmental aspects of sustainable development (Policy UR2). New development should maintain the quality of the built and natural environment, and Policy UDP3 makes specific reference of the maintenance or enhancement of heritage assets, environmental resources and biodiversity. The impact of travel should be reduced through managing the growth of traffic and promoting improved accessibility through the use of alternative modes to the private car (UDP7). The Shipley Constituency Report of the UDP covers Bingley: it explains that the location strategy in this part of the District identifies the urban area of Shipley/ Baildon followed by Bingley as the most sustainable locations (Document CD10b).
33. Policy H4 seeks to preclude other uses on allocated housing sites. Affordable housing is sought as part of substantial residential proposals: such proposals are those on sites of 1ha and above or involving 25 or more dwellings (Policy H9). The accompanying justification gives quotas of affordable housing for different market areas, derived from the Joint Housing Study: for Airedale a proportion of 30% is specified.
34. Proposals should not adversely affect transport infrastructure or services, or any improvements necessary to overcome adverse impacts should be secured by agreement or be undertaken as part of the development (Policy TM2). Policy TM19A makes it clear that the potential impact on traffic management and highway safety will be taken into account in considering proposals.
35. Policies BH7, BH9 and BH10 concern development and conservation areas. Policy BH7 requires development within or which would affect the setting of a conservation area to be of the highest standard of design and to preserve or enhance the character or appearance of the conservation area. Policy BH10 makes it clear that permission for the development of important open land within or adjacent to a conservation area will not be granted if, amongst other considerations, the land in question makes a significant contribution to the character of the conservation area and it provides an attractive setting for the buildings within it. Under Policy BH9, buildings which make a positive contribution to the special architectural or historic interest of conservation areas should not be demolished unless this would result in benefits to the community sufficient to justify the demolition. The Leeds and Liverpool Canal is the subject of Policy BH20. Proposals alongside the canal, or highly visible from it, should at least maintain its recreational, tourism and environmental value. Proposals which would harm the setting of listed buildings will not be permitted (Policy BH4A).
36. Within the identified landscape character areas, one of which is Airedale, development which is likely to affect the appearance of the landscape will be assessed having regard, amongst other matters, to the extent to which it would cause unacceptable visual intrusion and cause the disturbance or loss of or help to maintain historic elements which contribute significantly to landscape

character (Policy NE3A). The canal is identified in the UDP as a site of ecological/geological importance (SEGI): Policy NE9 provides that proposals which are likely to have an adverse effect on such sites will not be permitted unless there are reasons which outweigh the need to safeguard their nature conservation value. Protected species and their habitats are safeguarded by Policy NE10. Development which would adversely affect the integrity of the wildlife corridor network will not be permitted (Policy NE13).

37. Other policies of the UDP to which reference has been made include Policies GB1 and OS5. Policy GB1 restricts new development in the Green Belt, and Policy OS5 requires the provision of open space for new residential development.
38. The Council published the Further Engagement Draft of its emerging Core Strategy in October 2011 (Document CD12). Policy SC4 sets out a hierarchy of settlements, in which Bingley is identified as one of three principal towns. These towns are intended to be the main local focus for housing, employment, shopping, leisure, education, health and cultural activities and facilities. It is intended that provision will be made to facilitate broadly the scale of housing development set out in the RS, although during the second phase of the local development framework period (2008-2016) provision will be reduced to take account of the effects of the economic situation and adverse housing market conditions (Policy HO1). The intended distribution of housing throughout the District, for 2011-2028, is addressed in Policy HO3. During this period, 1,600 dwellings should be provided in Bingley.
39. The Further Engagement Draft Core Strategy sets out the preferred approach to the future development of the District. Following this stage, the pre-submission edition of the Core Strategy is expected to be published in autumn 2012 and the Council envisages adoption in 2013<sup>11</sup>. There is the possibility that the Core Strategy could be subject to changes following the consultation on the Further Engagement Draft and subsequently arising from examination. Consequently it carries only limited weight at this stage in its preparation.
40. Other local policy documents of relevance are the Airedale volume of the Council's Landscape Character Supplementary Planning Document (SPD), the Leeds and Liverpool Canal Conservation Area Assessment, and Micklethwaite Conservation Area Appraisal.
41. I have had regard to national planning policy, in particular that contained in the National Planning Policy Framework (hereinafter referred to as the Framework) and Circular 11/95 – The Use of Conditions in Planning Permissions. The Framework came into effect on 27 March 2012, after the inquiry had closed, when it replaced a series of planning policy guidance notes and statements. Reference had been made in the representations to a number of former planning policy guidance notes and statements, and consequently the main parties and GAG were given the opportunity to submit comments in respect of the Framework.
42. Guidance on walking distances is given in the Institution of Highways & Transportation (IHT) documents *Guidelines for Planning for Public Transport in*

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<sup>11</sup> Figure 12 of the Further Engagement Draft gives the date for submission of the Core Strategy as summer 2012 and for adoption as March 2013. At the inquiry, the Council explained that a degree of slippage had occurred.

*Developments and Guidelines for Providing for Journeys on Foot*. Reference is also made to walking in *Manual for Streets* (MfS1 Document CD17) and both it and *Manual for Streets 2 – Wider Application of the Principles* (MfS2 Document CD18) provide guidance on highway visibility requirements.

## Agreed Matters

43. Planning, highways and housing statements of common ground<sup>12</sup> were submitted by the appellants and the Council. The planning statement of common ground covers the following matters:

- As a matter of principle, site A is suitable to come forward for development now.
- The extensive and robust process to which the sites allocated under Policies H1 and H2 of the UDP were subjected means that significant weight should be afforded to the consideration of site A for residential development.
- Site A is sustainably located. It is accessible without reliance on the private car to a good range of services and facilities.
- Residential development of site A would comply with the Government's objectives for the planning system in the former PPS1 and for the delivery of its housing objectives in the former PPS3<sup>13</sup>.
- The information submitted with the outline planning application provides for a development based on strong concepts and developed from a good understanding of the landscape and the local environmental context.
- Proposal A would not harm the visual amenities and openness of the Green Belt.
- The scope and definition of heritage assets within the PPS5<sup>14</sup> assessments is appropriate, and the information provided is sufficient to allow for the impact upon their significance to be adequately considered. The proposals would preserve Laythorpe Farmhouse and its setting and the character and appearance of this part of the Leeds and Liverpool Canal Conservation Area
- The environmental statement is adequate.
- The information submitted in terms of ecology, nature conservation, heritage, archaeology, cultural heritage, air quality, lighting, landscape, soils and agriculture, drainage, flood risk, noise and vibration is adequate to demonstrate that there would be no unacceptable consequences in respect of these matters.
- The planning obligation and agreed conditions would secure a satisfactory standard of development.
- A description of site A and its surroundings.

<sup>12</sup> The highways and housing statements of common ground are appendices 1 and 2 of the planning statement of common ground (Document G3).

<sup>13</sup> Planning Policy Statement 1 – Delivering Sustainable Development, PPS3 – Housing: both have been replaced by the Framework.

<sup>14</sup> PPS5 – Planning for the Historic Environment: this policy statement has also been replaced by the Framework.

- Relevant planning policies<sup>15</sup>. Apart from the matters at dispute, the proposals would be consistent with the Development Plan.

44. The highways statement of common ground covers the following matters:

- Vehicle speed survey results on Keighley Road and Lady Lane.
- Traffic survey data on Micklethwaite Lane, and at the junctions of Micklethwaite Lane/ Keighley Road, Oakwood Drive/ Lady Lane, and the B6265/ the A650.
- Accident data for the period 2006-2011.
- Trip rates of 0.581 and 0.582 for the am and pm peaks respectively.
- Modal split of sustainable journeys.
- Site A is in a sustainable location, with good access to bus and rail facilities and local facilities available within walking distance.
- Assessment years and growth factors.
- Junction modelling results for Oakwood Drive/ Lady Lane concerning the permanent access arrangements for up to 22 dwellings.
- Oakwood Drive currently provides access to 178 dwellings.
- The existing and proposed geometric parameters of roads in the vicinity of the sites (tables 6 and 7).

45. The housing statement of common ground covers the following matters:

- The total housing requirement for 2004-2028 for Bradford is 60,240 dwellings and the residual requirement at November 2011 is 48,481 dwellings.
- The Strategic Housing Land Availability Assessment (SHLAA) supply summary in the draft Core Strategy includes land for 44,051 dwellings, but the deliverable supply is only likely to be sufficient for around 2.5 years.
- Proposal A would be appropriate to the strategic status of Bingley in the UDP and the emerging Core Strategy.
- The Bingley and Shipley market sub-area is identified in the Strategic Housing Market Assessment (SHMA) as one of the two most attractive housing market areas in the District.
- Housing is needed to support economic regeneration and growth in Airedale.

46. At the inquiry, the Council and the appellants further agreed a note explaining that the provisions of the planning obligation comply with the statutory tests of the Community Infrastructure Levy (CIL) Regulations (Document G4), and separately that the position concerning the ownership of land at the end of Oakwood Drive would not be an impediment to the provision of access to site A.

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<sup>15</sup> The statement of common ground refers to national policy prior to the Framework.

47. At the inquiry, the appellants and GAG agreed walking distances and times between site A and facilities in the area (Document G8).
48. The Council, the appellants and GAG agreed that conservation area consent for the demolition of the existing swing bridge (proposal C) should only be granted if planning permission were granted for its replacement. They also agreed that boats on the canal had priority over road vehicles for passing Mickethwaite Bridge, and that visibility for drivers emerging from Oakwood Drive onto Lady Lane is substandard.

### **The Case for the Appellants**

*The material points are:*

#### ***Legal issues***

49. The first such issue concerns the status of Policies H1 and H2 of the UDP. This is addressed in Counsel's opinion at Appendix 16 of Document RB8/2, which is adopted without amendment. A report concerning the saving of UDP policies was considered by the Council's Executive in April 2008. The report advised that, as all allocated housing sites would be available for potential development, there would be no further purpose to saving Policies H1 and H2, and that allocated sites would continue to be safeguarded by Policy H4. In accordance with the Council's application, the subsequent direction saved Policy H4 but not Policies H1 and H2.
50. Following a submission on the status of Policies H1 and H2, and the receipt of Counsel's opinion, the Council took the view that the allocations had been removed by the saving direction. A report to the Regulatory and Appeals Committee (Document CD7a) explained that it had not been the intention to de-allocate any unimplemented allocations, and that this had occurred as a result of a genuine mistake. In its resolution, the Committee acknowledged the error, and expressed the view that this circumstance accords significant weight when considering the appropriateness of site A for residential development (Document CD7b).
51. Counsel's opinion is that the housing allocations in the UDP were saved. Policy H4 is capable of bearing an interpretation which holds that it allocates site A for housing. Read together, the Proposals Map and Policy H4 clearly identify the protected allocations, and they create a strong presumption against any other use. Policies H1 and H2 are primarily concerned with phasing, and by 2008 they had served their purpose as the 90% trigger for the release of phase 2 sites (Policy H2) had been reached. Moreover the retention of Policy H4 means that the allocations were saved, since if that were not the position it is difficult to see how that policy could continue to operate. If, for the sake of argument, the housing allocations had not been saved, considerable weight should be given to the fact that the allocation for site A was mistakenly not saved in circumstances where the Council and the Government Office stated that it was not the intention to remove housing allocations.
52. It is agreed that the legal status of the housing allocation is open to differing interpretations. However, the Council and the appellants do not consider that this difference is determinative to the consideration of the appeal site's suitability for residential development.

53. The second legal issue concerns the ownership of land at the end of Oakwood Drive. It is Counsel's opinion that the titles concerned<sup>16</sup> do not constitute an impediment to extending the existing road. The final certificate of completion and adoption confirms that Oakwood Drive was adopted to the site boundary<sup>17</sup>. Although the footway on the western side was not adopted in the original agreement, it is understood that the Council has subsequently taken responsibility for it. Even if it were not available this would not affect the ability to provide access from the carriageway and footway on the eastern side.

## **Highways**

### *Oakwood Drive*

54. The full visibility splays referenced in Manual for Streets (CD17) cannot be achieved at the junction with Lady Lane. The Council had previously prepared a preliminary drawing for a 'build-out', similar to the approach of the appellants. Measurements record 85<sup>th</sup> %ile wet weather speeds of 32.43mph northbound and 33.13mph southbound on Lady Lane, requiring splays of 48.4m to the south and 51.68m to the north<sup>18</sup>. The required visibility to the north can be achieved by taking the splay to the centre island, and a significant improvement to 27m can be achieved to the south. The scheme, together with the proposed variable message signs, could also reduce traffic speed by 5-8mph. Moreover the improvements would provide a benefit for existing users of the junction travelling to and from the 178 dwellings to which it provides access.

### *The highway network with the emergency access open*

55. The Council's concerns about operational capacity derive from an AIMSUN modelling exercise. However, the absence of a validation report does not allow independent verification of the results, and it would be unreasonable to place reliance upon this evidence. The assessment by the appellants' highways witness shows maximum queue lengths in 2016 of 4 vehicles on Oakwood Drive in the morning peak, and 1 vehicle in the afternoon peak, with 13 vehicles southbound on Lady Lane in the morning peak and 11 vehicles northbound in the afternoon peak<sup>19</sup>. There would be no material capacity issues arising from the operation of the emergency access.
56. The GAG video assessment shows that the operation of the swing bridge, and therefore its propensity to break down occurs largely outside peak time. A breakdown is likely to be highly infrequent. The bridge was installed in 1985, and if it were to remain in place it would require refurbishment. The options report for a canal crossing refers to concerns about corrosion and the need to upgrade mechanical and electrical equipment was identified in 2008 (Document RB18). Road closures totalling about 3 hours per year could occur as a result of faults in categories of up to 6 hours duration, and faults requiring more time could involve closures of 3-7 days every ten years (Document RB3/1).

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<sup>16</sup> Appendices 5, 6 and 8 in Document RB38/2.

<sup>17</sup> Included in Document G11.

<sup>18</sup> Document RB1/1, para 5.21.9.

<sup>19</sup> Document RB1/6.



*Conditions after breakdown but prior to emergency access operation*

57. On very rare occasions there will be a material increase of traffic through Micklethwaite village and through the Carr Lane / Otley Road junction. Despite residents' concerns, the record shows that the section of road through the village and the Carr Lane junction itself currently operate safely without an adverse accident history. This potential harm needs to be balanced against the advantages arising from the scheme. The new bridge is likely to break down less frequently than the existing bridge, and it would also be 1-2 minutes quicker in its operation (below, para 59). Moreover traffic would clear more quickly as the new bridge would be two-way.

*GAG concerns about network capacity*

58. Traffic levels on the route to the north through Micklethwaite are low. In December 2011, two-way flows of 42 and 48 vehicles were recorded in the am and pm peaks south of the village and 18 and 23 vehicles on Carr Lane at the junction with Otley Road<sup>20</sup>. Traffic levels have fallen since the opening of the bypass: in 2000 two-way flows south of Micklethwaite were 66 and 71 vehicles during the am and pm peak periods<sup>21</sup>. Between 2-5% of traffic from the proposed housing development may head north, giving a maximum of 12 additional movements at peak times (Document RB1/1). The likely increase in vehicles arising from a reasonable assignment of traffic northwards along Micklethwaite Lane would not be noticeable against the daily variation of existing traffic flows. Differences with GAG's highway witness stem principally from the appellants' use of average trip generation rates rather than 85<sup>th</sup> %ile rates. In accordance with Guidance on Transport Assessment (Document CD16), the appellants agreed trip rates with the Council. The Guidance only suggests the use of 85<sup>th</sup> %ile rates if sites with comparable accessibility cannot be found. However, the trip rates derived from the existing residential development served by Oakwood Drive are very similar to the averages used<sup>22</sup>. Other assessments of average trip rates were included in Miss France's proof by way of comparison, although the number of sites in these data sets is relatively small (Documents RB1/1 & RB1/4). Car ownership in the super output area of Bingley ward, within which site A lies, was 1.01 per household in 2001, compared with 1.585 for the adjacent area at Oakwood Drive<sup>23</sup>. The comprehensive transport assessment calculates that use of the 50<sup>th</sup> %ile rates gives two-way trip numbers of 242 and 243 in the am and pm peaks respectively for the 418 dwellings which would be accessed from Micklethwaite Lane, and 18 and 19 peak period trips for the 22 dwellings which would be accessed from Oakwood Drive<sup>24</sup>.
59. Assessment of the existing bridge operation gives closure times of 3mins 50secs and 4mins 22secs<sup>25</sup>. Under routine operating conditions, it is calculated that the

<sup>20</sup> Figure 6431-04 in Document RB1/2. A further survey was undertaken in January 2012 which shows somewhat higher flows. The appellants' highway witness points out that at the date of this survey major engineering works were underway in Micklethwaite which would have influenced the flows, and I have, therefore, made reference to the 2011 figures.

<sup>21</sup> Figure 6487-03 in Document RB1/5.

<sup>22</sup> Table on page 6 of Document RB1/4.

<sup>23</sup> Table on page 12 of Document RB1/4.

<sup>24</sup> Table 6.1.4 in Document RB22/1.

<sup>25</sup> The figure of 3mins 50 secs derives from surveys carried out by the appellants in 2007 and included in Miss France's proof of evidence (Document RB1/1, paras 5.22.6-7). Her rebuttal proof draws on an analysis of GAG

average length of closure of the replacement swing bridge to road traffic for the passage of a single barge would be 2 mins 51secs, about 1-2 minutes less than the current closure time. Closure for a two boat passage would be 4mins 12 secs<sup>26</sup>. The Council refers to a benchmark for average delays of 120 seconds: the modelling exercise indicates that am peak average delays of about 120 seconds for the new bridge remain broadly constant for development up to 600 dwellings. In the southbound direction, there would be a marked increase in average delay between 550 and 575 dwellings<sup>27</sup>.

60. There may be some infrequent increase in maximum queue lengths when the operation of the bridge coincides with peak network usage, but the overall average experience for users would not materially worsen. The length of the northbound queue back to Keighley Road would be 18 cars in the pm peak for a single boat passing through the bridge and 26 vehicles on occasions involving two boats<sup>28</sup>, whereas there is sufficient stacking space for 30 cars<sup>29</sup>. In the morning peak there would be southbound queues of 23 and 34 cars respectively if the bridge were closed to allow the passage of one and two boats respectively. The canal is used for leisure boating, and analysis of the GAG DVDs shows that of 48 closures to road traffic, only five occurred during peak periods (Document RB32). For typical non-peak operations where only a few vehicles are queuing, the experience would be materially improved given the significant efficiencies to be gained by the operation of the new bridge as compared to the existing. Added to this is the fact that for most of the time the bridge is not closed to road traffic, and during these lengthy periods the new bridge will allow a two-way flow compared to the one-way flow at present. Moreover the existing bridge has no separate footway, and there are significant safety advantages in providing a footway as part of the new bridge.

#### *Access to Airedale Mills*

61. Observations indicate that the most common type of large vehicle travelling to and from the commercial premises at Airedale Mills is a three axle vehicle with a maximum gross weight of 26 tonnes (Document RB1/4). Such a vehicle would be able to access the site during the bridge construction period. In any event, the current bridge is in need of a significant mechanical and electrical refurbishment. Such work could take six weeks, although the bridge may not be fully closed to traffic for the whole of that period. The other evidence is that similar refurbishments have taken 8 and 12 weeks. Given the need for refurbishment, any potentially increased inconvenience for the users of Airedale Mills would not be sufficiently material to justify dismissing appeal B.

#### ***Consistency with the Development Plan***

62. It is agreed with the Council that the proposals are compliant with all the relevant policies of the Development Plan apart from Policies TM2 and TM19A of the UDP.

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DVDs, and records a time of 4mins 21secs at para 3.1.8 (Document RB1/4). Subsequently, further analysis of GAG DVDs led to an increase in the dwell time of 1sec (Document RB32).

<sup>26</sup> The outline approval in principle gives a bridge operation time of 145secs (Document RB2/2, Appendix C, 5.1), from which the first 5secs was deducted on the basis that it had no effect on traffic movement. Dwell times of 31secs and 112 secs for 1 and 2 barges to pass the bridge are in Document RB32. The length of time during which the bridge would be closed to traffic comprises the dwell time added to the adjusted bridge operation time.

<sup>27</sup> Figures 1 and 2 in Appendix 1 of Document CBMDC1/4.

<sup>28</sup> These are revised queue lengths submitted at the inquiry, taking account of further analysis of the GAG DVDs.

<sup>29</sup> Paras 5.22.26-27 in Document RB1/1.

These latter policies will support whatever judgement is reached on the principal highways issues. GAG refers to conflict with built heritage policies in the UDP. Whilst the appellants' heritage witness acknowledged that there would be some harm to heritage assets, this must be weighed with other important policy imperatives in the UDP.

63. As the appeal site was originally allocated as a housing site in the UDP, this means that the balance of policy issues had been resolved in favour of the development of site A at the time the plan was adopted. Even if Policies H1 and H2 are found to have lapsed, there remains policy support for the proposals. Site A is shown within the urban area on the UDP location strategy map, and this proposal meets the criteria of Policy UR2.

### ***A sustainable form of residential development***

64. There had been suggestions that a bus service would make site A sustainable. However the Council had recommended the provision of a bridge: this is covered in the planning obligation, but it could also be the subject of a condition. With the provision of the footbridge, most local facilities would be within maximum walking distances measured from various parts of the site<sup>30</sup>. Insofar as cycling is concerned, Keighley is about 5-5.5km from the site and other potential destinations, including Bingley, are closer<sup>31</sup>.
65. The sustainability of an individual location cannot be considered in isolation from potential alternatives. An appraisal of potential alternative sites in the Bingley/Shipley market sub-area supports the development of site A from a sustainability standpoint<sup>32</sup>. Moreover, the proposed housing would sit well with the settlement pattern and is consistent with Bingley's position in the proposed and existing settlement hierarchy.

### ***Heritage assets and landscape***

66. The proposed residential development would have an indirect moderate adverse impact upon Laythorpe Farmhouse and barn, a grade II listed building. Due to the significance of the building, the resulting effect was described as major adverse (Document RB4/1), but this does not equate to substantial harm in the terms of paragraph 133 of the Framework since this level of harm would be to the setting, and it would not cause substantial harm to the significance of the asset itself. The statement of common ground confirms the Council's view that there would be no undue adverse effect upon the farmhouse and its setting.
67. GAG's argument that site A is a palimpsest reflecting a layering of historical significance is over-stated: the heritage assets do not gain special significance by reason of their proximity to one another. Extension of the Leeds and Liverpool Canal Conservation Area into part of the appeal site was not constrained by the housing allocation. Comments about a possible bronze age settlement indicate a degree of speculation, and English Heritage has advised that it has been decided not to designate the bronze age cup and ring marked stone as an ancient monument (Document G12).

<sup>30</sup> Appendix E in Document RB1/5 sets out distances to local facilities and services.

<sup>31</sup> Appendix K in Document RB1/5.

<sup>32</sup> Section 8 of Document RB7/1.

68. The design of the new swing bridge is not inappropriate. The parameters drawing for the pedestrian bridge (Plan D17) is not intended to be a design solution, and a draft design, which shows a more elegant structure, is at Appendix 14 of Document RB5/2.
69. A detailed landscape assessment has been undertaken (Documents RB6/1 and 6/2). The nature of the views would be of a designed housing pattern of varying character, supported by an extensive network of existing hedgerows and trees with new planting. The development has the potential to be a high quality urban extension, and the appellants' landscape witness consequently considered that the nature of the change in view would be largely neutral.
70. Careful attention has been paid to design throughout the process. The design team arrived at the proposed amount of development through a qualitative assessment of the site based on an iterative series of conceptual masterplans (Document RB5/1). These iterations were heavily informed by specialist landscape and heritage advice, and the proposal does not seek to achieve the highest density possible.

### ***Amenity value of the canal***

71. The recreation value of the canal is not disputed. However the GAG survey has its limitations: the introduction reveals that questioners identified themselves as part of GAG, which is opposing the development<sup>33</sup>. Additionally a significant number of respondents are likely to have lived locally and, as they would be aware of the campaign against the development of site A, it is unsurprising that answers were given as they were. The recreational and amenity value of the Leeds and Liverpool Canal will remain high. Site A's proximity to the Five Rise Locks will continue to attract visitors, and there is unlikely to be any material diminution in the value of the canal.

### ***Other considerations***

#### ***Effect on the Green Belt***

72. The appellants' view that the thin sliver of land within the Green Belt would not be affected by inappropriate development is supported by the Council. GAG's planning witness had no concerns in this respect. There would be no net additional impact on the openness of the Green Belt, and there is no conflict with the purposes of including land within it. The visual amenities of the Green Belt were dealt with comprehensively in the evidence of the appellants' landscape witness, which shows that there would be no detrimental impact by virtue of the proposed development.
73. However, dismissal of appeal A would be likely to lead to harmful impacts on the Green Belt. The Council indicated that in the search for housing sites it was likely to have to rely in part upon the release of Green Belt land. The plan at page 102 of Document RB7/2 shows that a number of the potential SHLAA sites which may need to be released to meet the Bingley apportionment of housing land are in the Green Belt. The failure to develop the appeal site is likely to increase pressure for further Green Belt land release, not just within Bradford district generally, but

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<sup>33</sup> Appendix 2 of Document GAG4/2.

specifically in Bingley if it is to remain as a principal town in the settlement hierarchy.

### *Supply of housing land*

74. The agreed position between the appellants and the Council was not disputed by GAG. Amongst other matters the evidence demonstrates that there is only a 2.5 year deliverable supply of housing land in Bradford, and that the extent of the residual housing requirement apportioned to Bingley is highly dependent upon the delivery of the Sty Lane site given its scale.

### **Overall conclusions**

75. The developments are in accordance with the Development Plan, and benefit from the presumption in Section 38(6) of the Planning & Compulsory Purchase Act 2004. They are also compliant with other terms of primary planning legislation, including Sections 66 and 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 and Section 143 of the Localism Act 2011. They are compliant with national planning policy, and with objectives of the emerging Core Strategy.
76. New market and affordable homes would be provided to address the District's pressing housing needs, and the proposals would also deliver substantial economic benefits in the form of employment opportunities, construction contracts and related commercial activity, expenditure by new residents in the local area, receipts from the Government's New Homes Bonus and Council Tax revenue.
77. Proposal A would deliver well designed, good quality and attractive family and other homes, which will help achieve a mixed, inclusive and sustainable community, and provide choice in the local housing market. It would make efficient use of an accessible, urban extension site. The proposals would protect and enhance the local environment, including the character and appearance of the Leeds and Liverpool Canal Conservation Area, the canalside, and the heritage value of Laythorpe Farmhouse as a Grade II Listed Building.
78. Additionally, the proposals would protect the amenities of local residents, provide safe and convenient vehicular and pedestrian access, provide quality public open space, and deliver substantial community benefits through a package of significant contributions in the planning obligation. They would not occasion material harm to other important interests sufficient to outweigh all of the above considerable advantages.

### **The Case for the Council**

*The material points are:*

#### ***Whether proposal A is consistent with the Development Plan***

79. The Council's position is that the allocation of the site in the UDP has lapsed. That is for the following reasons. Housing sites in the UDP were allocated by Policies H1 and H2, with H1 dealing with phase 1 sites, and H2 with phase 2 sites. Phase 1 sites were allocated for development straight away. Phase 2 sites were to be released for development in the latter part of the plan period, when 90% of the

phase 1 requirement had been built by developers. That trigger point was reached in 2008 and phase 2 sites were then released.

80. in 2008, the Council applied to save policies of the UDP (Documents CD2-4). Policies H1 and H2 were not proposed to be saved, because it was recognised that the phasing mechanism in those policies was redundant. The Council asked for Policy H4 to be saved, in the belief that this policy would protect the allocated housing sites. The subsequent saving direction saved Policy H4, but not Policies H1 and H2 (Document CD5).
81. The proposals for development which were devised by the UDP had to be contained within the written statement referred to in section 12(4)(a) of the Town and Country Planning Act 1990 then in force. Their geographical extent had to be shown on the Proposals Map. The Proposals Map does not allocate anything. The site specific allocations are dealt with in detail in the Constituency Proposals volumes. Sty Lane is in the Shipley constituency. The Shipley Proposals Report states explicitly that: *The following sites (over 0.4 hectares) are allocated on the Proposals Map for Housing in accordance with Policy H1*, and there is a similar provision in respect of Policy H2. Policy H4 is a protective policy: it is negatively worded and allocates nothing. Its function was to protect the supply allocated by Policies H1 and H2 from development proposals inconsistent with their allocation as housing sites. Policies H1 and H2 performed two roles: they allocated the sites for housing and allocated them to either phase 1 or phase 2. The failure to save these policies means that the allocations lapsed, as well as the phasing. The saving of Policy H4 did not save the housing allocations.
82. The decision of the Council's Executive on 21 November 2011 recognised that Policies H1 and H2 had lapsed as the result of a mistake. The Executive resolved that significant weight would be attached to the previous allocation of the phase 2 sites (Document CD7). The Regulatory and Appeals Committee considered the position in respect of appeal A on 1 December 2011, and made a resolution to the same effect (Document CD7b). The former housing allocations' merits as locations for housing have not been adversely affected by the lapsing of Policies H1 and H2, and the Council attaches significant weight to their former allocation given that, in the case of the site A, its merit as a housing site was tested at the inquiry sessions considering objections to the deposit Replacement UDP.
83. The only conflicts with the Development Plan claimed by the Council are with Policies TM2 and TM19A of the UDP. Establishing conflict with those policies will depend upon the Council's case on highways issues being accepted. There is no other conflict with any policy of the UDP or the RS, and no material considerations which would indicate that a decision otherwise than in accordance with the Development Plan ought to be taken. The proposed revocation of the RS ought not to affect the outcome of these appeals, since there is no aspect of the merits of the proposals which would alter if the RS no longer formed part of the Development Plan.

### ***Whether appeal A represents a sustainable form of development***

84. Given the Council's recognition that the merits of the appeal site as a location for housing have not been altered by the lapsing of Policies H1 and H2, it follows that it is still of the view that the site A is a sustainable location for housing development.

85. The scheme would be a sustainable form of development, provided that a pedestrian footbridge is constructed across the canal. The proposal would deliver such a bridge by means of the Council being given the funding to provide it under the terms of the planning obligation. There is no evidence to suggest that the £500,000 payment would be insufficient for this purpose. The Council has a strong incentive to provide the bridge, because it considers that site A's sustainability merits are seriously weakened without one. The payment in the planning obligation can be used for no other purpose. There is no reason to conclude that the bridge could not be appropriately located and designed or that it could not secure the necessary consents and be constructed.

### ***Highway safety***

86. The Council has proceeded on the basis that it would take up to one hour for it to erect temporary traffic signals at the Oakwood Drive/ Lady Lane junction from the time when it is first alerted to a problem with the swing bridge at Micklethwaite Lane (Document CBMDC 1/1). There has been no challenge to that time estimate. The potential automation of the barrier between Oakwood Drive and the major part of the appeal site does not alter the position, as it is agreed that it would not be appropriate to open or lower that barrier prior to the installation of the temporary signals. However, having regard to the appellants' evidence, which explains that British Waterways would first visit the bridge and assess the situation before contacting the Council, the delay in opening the alternative route from the time when the bridge failed would be likely to exceed one hour, perhaps by some considerable margin. The call-out logs for the bridges at Granby Lane and Morton Lane (Documents CBMDC7/1-2) suggest that failures which close the bridge to traffic may not be as infrequent as the appellants suggested. The Council's estimate that the bridges which it maintains are closed to traffic for about 24 hours per year, in aggregate, should not be rejected out of hand (Document CBMDC1/3).

87. The Council's concerns about the effect of the proposal on the highway network draw upon the Aimsun model. The particular advantage of such a model is that it demonstrates the effects of an incident on a network. Aimsun is, therefore, advantageous in showing the effects of the proposed swing bridge being closed to traffic for longer periods than would arise under normal circumstances, and it is a legitimate model to use to test the effects of the appeal proposals. Whilst the Aimsun model created for the purposes of the appeal produced a different output from that used to assess the application, this is because it is more extensive geographically. It covers an appropriate geographical extent. It was set up so as to assign traffic to the network by means of inputting origins and destinations, rather than the use of turning proportions at junctions, allowing for the traffic in the model to find alternative routes when the bridge is out of use.

88. Two sources of data were used in the model: data in the appellants' comprehensive transport assessment (Document RB22/1) and Council counts. Whilst there has been criticism of the use of Council counts, there is no real, as opposed to conjectural, reason to suppose that such information is unreliable. The constructed base model was tested against actual traffic counts from links and junctions. The modelled results in the base model were within 98% accuracy

of the actual counts, whereas the relevant guidance on validation requires correlation to be 95% or better<sup>34</sup>.

89. The appellants expressed concern about the validation of the model, based on the failure to produce a local model validation report. However Interim Advice Note 36 recommends validation appropriate to the model<sup>35</sup>, and full compliance with the DMRB guidance may not be necessary. In any event, there was validation of the model. Officers went on site to see how the network performed in relation to the model, and they found it to be valid. In the absence of any reason to suspect that officers did not undertake such observations or undertook them improperly, the reporting of such observations should be relied upon. It is submitted that the Aimsun model is sufficiently robust for it to be relied upon in considering the effects of the proposal on the highway network.
90. The evidence of the Council's highways witness is that in the period following breakdown of the bridge and prior to the opening of the emergency access<sup>36</sup>:
  - In the am peak in 2011, there would be an average delay of 197 seconds on the Carr Lane approach to the junction with Otley Road, which is above the 120 second figure used by the Council as a threshold of concern about delays.
  - At the Morton Lane/Keighley Road junction in the 2011 am peak, average queues would be 17 vehicles, the maximum queue 55 vehicles and the average delay would be 167 seconds<sup>37</sup>.
  - In the am peak in 2016, queues at Carr Lane would be, on average, 28 vehicles, with a maximum modelled queue of 82 vehicles. The average delay would have risen to 263 seconds.
  - In the pm peak in 2016, vehicles using the northern arm of Main St would experience an average delay of 171 seconds, close to the 180 second threshold for concern which applies to a signalised junction. The Park Road arm would have an average delay of 190 seconds.
91. With the alternative route fully open and operational, in the pm peak in 2016 there would be an average delay on Main Street (north) of 180secs. Maximum queues of 30 or more vehicles would occur here in both peak periods in 2016, and on the Park Road leg of that junction in the pm peak. On the Lady Lane leg of the Park Road/Lady Lane junction, maximum queues exceeding 40 vehicles are predicted to occur in both peaks in 2016, and in the am peak there would be a maximum queue of 75 vehicles on Oakwood Drive<sup>38</sup>.
92. There is also concern about the geometry of the junction at the Oakwood Drive / Lady Lane junction. Visibility for vehicles leaving Oakwood Drive is inadequate both to left and to right. The 85<sup>th</sup>ile speeds set out in the highways statement of common ground are about 36mph in both directions. Manual for Streets would, therefore, require a minimum y distance of 56m in both directions. The

<sup>34</sup> Appendix B in Document CBMDC1/2.

<sup>35</sup> Appendix A in Document CBMDC1/2.

<sup>36</sup> Appendices G and L in Document CBMDC1/2.

<sup>37</sup> A figure of 267 seconds is given for this delay in the Council's closing submissions. I have used the figure on the plan showing the results for model 4 (revised Appendix L in Document CBMDC1/2), which the Council advised were correct at the inquiry.

<sup>38</sup> Appendices H and M in Document CBMDC1/2.



existing visibility is 15.6m to the left and only 12.3m to the right<sup>39</sup>. On any view, these are serious shortfalls against the relevant standard. The scheme proposed in the comprehensive transport assessment, involving a kerb build-out, would produce 32.7m visibility to the left and 22.9m to the right. Those distances are still seriously deficient when measured against the Manual for Streets requirements.

93. A further proposal, shown on drawing 6431-007, involves a traffic calming scheme. The traffic island shown north of the junction is not appropriate. Drivers emerging from Oakwood Lodge would have their view to the left reduced below that available to them at present. Drivers wishing to turn right into Oakwood Lodge would have to wait in the hatched area, risking the occurrence of inappropriate undertaking manoeuvres. The proposals also require a traffic regulation order (TRO) to be made which would prevent parking on some parts of the highway. However, the successful delivery of such an order cannot be guaranteed. Even with this proposal, visibility to the right would remain sub-standard at 27m. The shortfall is serious. It is recognised that the works would create improvements for the existing 178 and additional 22 dwellings using the Oakwood Drive access, but the junction would still be expected to accommodate traffic during the closure of the bridge, with all of the development traffic and all traffic which would otherwise wish to use the proposed bridge having to divert along Oakwood Drive. Increased levels of traffic would use a junction with seriously sub-standard visibility. The appellants' evidence does not show that there is a prospect of speed reductions of such magnitude as to render a 27m splay to the right compliant with Manual for Streets. The variable message signs proposed on Lady Lane would not comply with the guidance on their usage, since Traffic Advisory leaflet 1/03 indicates that they should only be installed when standard signage has failed<sup>40</sup>. Moreover the examples referred to by the appellants (Document RB35) do not demonstrate that these reductions could be achieved on Lady Lane.
94. In relation to appeal B, the Council also has concerns about the 9 week closure of the canal crossing that would have to take place during the construction of the new bridge. That point was not raised about appeal A when it was determined, because the need for that closure was not then apparent. However, the access details in appeal B are intended to be those put in place if appeal A succeeds, so logically that concern about appeal B would also arise about appeal A.
95. During the closure period, the only access to Airedale Mills and the adjacent premises would be via roads to the north. Those roads, which include Micklethwaite Lane and Greenhill Lane, are narrow with pronounced curves. Airedale Mills contains a business called Kimbledale Limited. The Council understands that it receives deliveries twice per month by vehicles of between 15 and 32 tonnes in weight<sup>41</sup>. Those vehicles would have to use those narrow roads, in combination with other diverted traffic. Given the width of the roads, there would be a prejudicial effect on highway safety during that period.

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<sup>39</sup> The exiting visibility splays were measured at the site visit and agreed by the Council, the appellants and GAG as 15.6m to the left and 12.3m to the right. These differ from the dimensions shown on drawing ref 4634/01A (Plan A4) and the Council's closing submissions were amended accordingly.

<sup>40</sup> Appendix 9 in Document CBMDC1/2.

<sup>41</sup> Section 5 of Document CBMDC1/1.

### ***Character and appearance and the effect of proposal A on the canal***

96. The Council has no objection to the appeals on these grounds.

### ***Green Belt***

97. The only development which would take place in the Green Belt would comprise engineering operations to achieve a suitable arrangement at the junction of Sty Lane and Micklethwaite Lane. These operations would involve the realignment of a wall and carriageway alterations. They would not have any net adverse effect on the openness of the Green Belt or upon its purposes. Nor would there be any adverse effects on the visual amenities of the Green Belt as a result of any of the three appeal schemes.

### ***Housing land supply***

98. The effect of proposal A on housing land would be beneficial, given that Bradford does not have a five year supply. However, highway concerns outweigh the favourable consideration which should be given to a proposal when there is not a suitable five year supply.

### ***Infrastructure schemes and contributions***

99. Setting aside concerns on highways issues, the Council considers that the appeal schemes would deliver appropriate infrastructure and contributions. The planning obligation is appropriate in its content and the provisions it contains accord with the requirements of Regulation 122(2) of the CIL 2010.

### ***Possible outcomes***

100. If appeal A is dismissed for reasons which include a finding that the effect of the proposed swing bridge or the alternative route through Oakwood Drive would be unacceptable, then appeal B should fail too. If appeal A is dismissed for reasons other than highways-related issues, then there would be no reason to dismiss appeal B. If appeal A is dismissed on highway grounds and if appeal B is also dismissed, then it would not be appropriate to allow appeal C, because it is to be expected that an acceptable replacement for the extant swing bridge would be in contemplation prior to permitting the removal of the existing bridge.

### ***Conclusion***

101. Proposals A or B would create a situation with unacceptable effects for highway capacity and safety. Those effects would manifest themselves when the proposed swing bridge was closed to vehicles, both in the period prior to the opening of the alternative route via Oakwood Drive and after the alternative route was opened to traffic. If both these appeals are dismissed, appeal C should also fail.

### ***The case for GAG***

*The material points are:*

### ***Historic heritage***

102. The area encompassing the appeal sites and their environs represents a palimpsest of the evolution of the distinctive identity of this part of West Yorkshire from its pre-historic origins ('the bronze age remains'), its pre and post-medieval settlement ('the field patterns' and 'ancient ridge and furrow') to

the 18<sup>th</sup> century Laythorpe Farmhouse and the Leeds and Liverpool Canal. The proposed developments would cause material harm to the built heritage, including the Leeds and Liverpool Canal Conservation Area, Micklethwaite Conservation Area, Laythorpe Farmhouse, Greenhill Gate, the earthworks and the field divisions and boundary walls (Document GAG3/1). There would be conflict with Policy BH7 of the UDP.

103. This particular stretch of the Canal Conservation Area is special due to its context, with the benefit of views from the canal up the valley side to the wood at the top. Site A makes a significant contribution to the character of the Canal Conservation Area, provides an attractive setting for it, and affords the opportunity for significant vistas. Development here would, therefore, conflict with Policy BH10 of the UDP. There is a duty to pay special attention to the desirability of preserving and enhancing the character and appearance of the conservation area. The presumption not to cause harm inherent in this duty means that other material considerations would have to be overwhelming to sanction such harm.
104. The appellants assume that a sympathetically designed pedestrian bridge could have a neutral direct impact despite the absence of a detailed plan. However, the evidence does not instil confidence that this would be the case. The width of the replacement swing bridge would be double that of the existing structure, and it is likely to be bulkier in appearance. It would also be likely to be significantly wider than other swing bridges along the canal. Moreover, the alteration to the historic alignment of the road leading on to the bridge is unlikely to be sympathetic. Although about three-quarters of the hedgerows on site A would be retained, this provides little mitigation given the size of the proposed housing development.

### ***Landscape***

105. The mitigation measures comprising vegetational screening, the setting back of houses from the canal, and what is described as 'sympathetic place-making' would not neutralise the harm to landscape caused by up to 440 houses, some of which would be three storeys in height. Openness is an important aspect of site A, and the proposed development will reduce this. Furthermore, the development would change the character of important views from the canal towpath towards the site (Document GAG4/1).

### ***Highway safety***

#### ***Micklethwaite Lane***

106. The local highway network is characterised by narrow lanes with limited forward visibility and visibility splays at junctions, together with often problematic topography. On Micklethwaite Lane there are several places where two cars cannot pass freely, and minor road traffic accidents are reported by residents as common events. The appellants assume that no more than 5% of vehicle movements from the new housing would use the northern section of Micklethwaite Lane. However this direction would provide a route towards Leeds,

Otley, Ilkley, Harrogate and the M1, and, having regard to the experience of residents, it is suggested that a range of 4-10% is more realistic<sup>42</sup>.

107. The Carr Lane/ Otley Road junction is substandard due to a steep gradient and poor visibility. The appellants' highway witness accepted that the junction is substandard, and that a material increase in traffic there would be unlikely to be acceptable in highway safety terms.

#### *Trip generation*

108. In the absence of data from truly comparable sites, trip generation should be calculated using 85<sup>th</sup>ile data, and not the 50<sup>th</sup>ile used by the appellants. Other developments selected by the appellants are smaller and a number include flats (Appendix C in Document RB1/5), and are not comparable to proposal A. Analysis of the modal distribution of person trips shows that vehicle occupants account for 85.02% of those travelling to work, and supports the use of 85<sup>th</sup> %ile trip rates<sup>43</sup>. Moreover, car ownership in Rombalds ward, at 1.39 is higher than at district, regional and national level<sup>44</sup>. It is also questionable whether the existing houses on Oakwood Drive are comparable to those proposed. The appellants acknowledge that their assessment of a 50<sup>th</sup>ile trip rate is fairly similar to that put forward by the appellants (Document GAG2/3).

#### *Queue lengths*

109. The distance between the swing bridge and the junction of Micklethwaite Lane with Keighley Road is 165m. Surveys undertaken by GAG give an average bridge closure time of 4mins 43secs and an average of 7 closures per day<sup>45</sup>. The highest number of closures – 15 – occurred on a May Day bank holiday. Using these closure times would generate a queue of 167m in the pm peak<sup>46</sup>. The appellants had assumed that boats travelling past Micklethwaite Bridge would be crewed by more than one person, but evidence from a local resident suggested that about 5% of crossings are solo (below, para 141). Such crossings would take about 90 seconds longer, and would increase the length of time that the bridge would be closed to vehicles and the length of queues. When the bridge reopens, the queue, delay and corresponding inconvenience will not end immediately, but will continue as the convoy of traffic works its way around the system.
110. The appellants argue that, with the new bridge, the period of road closure would be 1-2 minutes less than at present. Whilst this has not been substantively challenged, the planning obligation would not require that the bridge is built to operate at the speed indicated at the inquiry.

#### *The replacement swing bridge*

111. There is no evidence of such a large scale residential development being served primarily by a swing bridge. Canal traffic takes precedence over vehicular traffic, and there would be no restrictions on the time of day when canal traffic

<sup>42</sup> A level of 10% is given in Document GAG2/1: at the inquiry GAG's highway witness indicated that the proportion could be lower.

<sup>43</sup> Table in Appendix C of Document GAG2/3.

<sup>44</sup> Table 7.3 in Document GAG2/1.

<sup>45</sup> Appendix 7 in Document GAG2/2.

<sup>46</sup> Table 7.5 in Document GAG2/1.

could pass the bridge. This would inject an element of uncertainty to journeys, and residents would have to build in extra time to guard against the small risk of a temporary closure.

112. Unlike at other bridges, the appeal proposals would position the control panel on the towpath side of the canal. It is not clear that British Waterways would be satisfied with this arrangement.
113. In the event of an unscheduled closure of the bridge to vehicles, the procedure involves attendance by a local British Waterways operative, and if the problem cannot be resolved, contact with the Council to initiate the emergency access arrangements. Such a process, involving a number of different people, is likely to take more than the one hour assumed by the appellants. During this time, the housing development would effectively be cut off from all vehicular access other than by Micklethwaite Lane or Sty Lane/ Greenhill Lane. These roads are completely unsuitable for such increased traffic. British Waterways is about to become a charitable trust, accompanied by a reduction in funding (Document GAG7). This circumstance is likely to make it more difficult to respond expeditiously and effectively to reported faults at the swing bridge. Accordingly, the length of closures due to bridge problems and the consequential length of queues are likely to be greater than that suggested by the appellants.

#### *The Oakwood Drive/ Lady Lane junction*

114. It is common ground that this junction does not meet the visibility splay requirements in Manual for Streets (Document CD17). Even taking account of the measures proposed by the appellants (above, paras 10 and 24), it would continue to fail to meet these requirements, whereas full visibility splays were required for a nearby development of 11 dwellings. Moreover it cannot be assumed that the TRO restricting on-street parking, which forms part of the revised scheme, would be able to come into effect.

#### *Sty Lane one-way proposal*

115. The one-way system proposed on Sty Lane would also be subject to a TRO, and it cannot be assumed that it would come into effect. However, without the one-way system, there would be no means to control the flow of traffic along this road which is unsatisfactory in terms of geometry and forward visibility.
116. Because of their effect in highway terms, the proposals would conflict with Policies TM2 and TM19A of the UDP.

### ***Sustainability***

117. Site A does not meet the recommended walk distances of 400m to bus stops and 800m to all local amenities and the railway station as set out in the IHT guidance. Moreover, the gradient is likely to represent a deterrent as to whether future residents choose the option of walking. The absence of a bus service places even greater importance on the site being sufficiently proximate to nearby amenities, bus stops and the railway station. Keighley is at least 7km from the site and cannot be considered accessible by cycle. Other destinations are further than indicated in the CTA<sup>47</sup>. It is considered that the site is not sustainable.

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<sup>47</sup> Table 4.6 in Document GAG2/1.

118. Without the footbridge, the housing site would be unsustainable, as the walk distances, particularly from the southern portion of the site, would be excessive. However, details of the bridge are lacking, and it is conceivable that the Council could encounter land acquisition problems. The Council has not provided any evidence to support its confidence that the sum of £500,000 would be sufficient to pay for the bridge, and the planning obligation does not require that the bridge be built. The nature of the obligation and the unwritten commitment of the Council are insufficient to ensure that the bridge would be delivered.

#### ***Inconvenience to existing residents***

119. The one-way system on Sty Lane and the proposed TRO to prevent on-street parking on Lady Lane are likely to constitute a significant inconvenience to a number of people. This matter is unlikely to be determinative, but it is an issue which weighs modestly against appeal A.

#### ***Leisure amenity of the canal***

120. The Bingley Locks and North Bog Activity and Interpretation Plan, finds that this part of the canal has a very high level of passing users (Document GAG6). The survey data shows that 98% of current users consider that their enjoyment of the canal will be spoiled if the appeal succeeds. The siting of a 16ha housing development cannot help but detract from the enjoyment of the canal as it would seriously compromise the appreciation of the views up the valley side. It is estimated that the length of canal along which important views would be adversely affected is about 650m (Document GAG4/1).

#### ***Ownership of land at Oakwood Drive***

121. Registration documents show that land at the end of Oakwood Drive is owned by other parties (Documents O5/1, O6). As the owners of this land have stated their intention not to sell it, a negatively worded condition concerning access across it would not be appropriate. It is calculated that the width of land available to the appellants to provide a link is 6.2m, whereas a minimum of 7.3m would be required. The change in levels would reduce the width of land available for the carriageway.

#### ***The status of the housing allocation***

122. Having regard to Section 12 of the Town and Country Planning Act 1990, proposals for development must be contained in the written statement of a UDP, and the geographical extent of their application is reflected on the proposals map. The proposals map cannot make policy or allocations: it simply reflects the written statement. The allocation of housing land is clearly contained in Policies H1 and H2, and reflected on the proposals map. Neither of these policies has been retained by the Secretary of State's direction (Document CD5). Policy H4 is a protective policy and it does not allocate anything. It follows that none of the housing allocations contained in the UDP are extant, and that none carries the presumption in favour of the provisions of the Development Plan contained in s38(6) of the Planning & Compulsory Purchase Act 2004.

#### ***Approach to determination***

123. The Council's suggestion that significant weight should be attributed to the fact that the site was allocated as a housing site in the UDP and it was removed only

as a result of a mistake is strongly contested. The public must be able to rely on the content of a plan rather than an informal policy, the previous allocation is not a material consideration as the policy has been removed from the UDP, and intention is not relevant. Although the land was tested through a statutory process, as the policy has gone so has any weight that might have been attached to that process. Moreover the fact that ten years ago it was felt appropriate to allocate the site for housing does not mean that the same decision would be made today.

### **Conclusion**

124. The appeal proposals breach policies of the Development Plan. S38(6) directs that permission should therefore be refused unless material considerations indicate otherwise. The only benefits of the scheme, in terms of helping to meet the district's housing supply shortfall, providing affordable housing and the imperative in *Planning for Growth*, do not outweigh the harms identified.

### **The Cases for Interested Parties**

*The material points are:*

#### **i) Councillor M Ellis**

125. The Inspector's report on the UDP (Document CD9) referred to an expectation that completion of the relief road<sup>48</sup> would reduce traffic on the moorland roads to the north of site A by about 30%, and that traffic levels would also be reduced in Bingley town centre. However, whilst there may have been some reduction in the town centre, traffic now appears to be back to previous levels here, and it appears to have increased considerably on the moorland roads. The road through Mickethwaite and the junction of Otley Road/ Carr Lane are unsuitable for additional traffic. At the time of the UDP inquiry, there was an intention to provide funding, if necessary, for a bus service into the site.

126. The present swing bridge was installed in 1985. It may not be the best-looking bridge, but it complements the conservation area, and is of historic interest as this has been a crossing point since the canal was built. Its demolition and replacement would detract from the conservation area, and the alignment of the proposed bridge would intrude into an area of open space.

127. In the event of a problem at the bridge, it would be necessary to contact the Council. There are officers on duty 24 hours a day, but it would then be necessary to contact the duty engineer, and for him to travel to the depot and then on to Oakwood Drive. A period of one hour for this is considered to be a real under-estimate on a Saturday afternoon. There is also concern about the prospect of allowing water into the canal as a result of the development, since this could lead to a risk of flooding downstream.

#### **ii) Councillor D Heseltine (Document O8)**

128. The UDP Inspector's report referred to higher level services and employment being available a short bus ride away in Bingley town centre. However employment opportunities have shrunk: the headquarters of the Bradford &

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<sup>48</sup> The relief road, also referred to as the Bingley bypass, was opened in 200, after the UDP inquiry. It carries the A650 through the Aire valley.

Bingley Building Society has gone and jobs have been lost from a joinery firm in Keighley. There is an increasing need to commute. The report refers to inadequacies in the road network to the east and north of the sites. Any leakage of additional trips onto these roads would affect highway safety.

129. The Highway Agency report, *Post Opening Project Evaluation (POPE) – Five Years After Study: A650 Bingley Relief Road*, gives average weekday figures for vehicle movements before and after the opening of the bypass. On Otley Road, it records figures of 9,300 vehicles before the bypass, 9,900 one year after opening and 9,500 five years afterwards. At Glovershaw Lane, the figures are 6,200, 5,700 and 6,300, on Harden Road 8,900, 10,300 and 10,300, and at the eastern end of the bypass 28,100, 35,900 and 35,600 at the same dates<sup>49</sup>. Traffic growth for the first five years was expected to be about 14% in Bingley, higher than the level for Bradford (10.2%).
130. If the bridge breaks down, the situation would be unsatisfactory prior to the opening of the emergency access. There are concerns about access for medical emergencies.
131. The existing swing bridge is subservient to its surroundings, but the proposed replacement would have an effect on wildlife and its setting. There is also concern that the housing development would place additional pressure on infrastructure, and adversely affect the landscape and the setting of the Leeds & Liverpool Canal Conservation Area.

### **iii) Councillor J Pennington**

132. Difficulties on the local road network include double bends in Micklethwaite. Closure of the swing bridge to vehicles causes delays, and queues build up quickly. Often more than one boat passes the bridge during a closure. Local services cannot take more pressure. It is difficult to park at the railway station, schools are over-subscribed, and the health service is operating at capacity. It is suggested that the housing figures could be flawed.

### **iv) Bradford Urban Wildlife Group** (Documents O11/1-2)

133. The number of houses proposed would affect the landscape and the ecology of the sites. Over 62 species have been identified on the sites, and the habitats which support them are also important, although it is acknowledged that they are also found elsewhere in the locality. Hedgerows on site A are species rich and mature. There would be some loss of hedgerow, and arrangements for future occupants to maintain sections are considered to be unsatisfactory. The canal functions as a wildlife corridor. Particular mention was made of the white-letter hairstreak butterfly, which has been sighted in the Crossflatts area. This species declined in the 1970s, due to Dutch elm disease reducing its breeding places, but it is now recovering in a few areas.

### **v) Crossflatts Village Society** (Document O2)

134. Crossflatts would be severely affected by increased traffic, strain on infrastructure and facilities, and destruction of a visual amenity which is a buffer

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<sup>49</sup> These traffic levels are for points 6, 11, 14 and 15 on figure 2.2 in the report by Atkins for the Highway Agency, an extract of which is included in Document O8.



separating Crossflatts, Micklethwaite, and part of Bingley. The relief road has done little to alleviate the level of traffic passing through Crossflatts, since Keighley Road provides access to schools, the railway station, Bingley town centre and Castlefields industrial estate. There would be difficulties for vehicle movement along Keighley Road, with delays to buses, and safety problems. Micklethwaite Lane is not suitable for any additional traffic. Queues quickly form when the bridge is closed to traffic, and the hazard this presents for emergency vehicles would be exacerbated. The new bridge would have a damaging effect on views into and out of the conservation area. With recent and proposed housing developments, Crossflatts has reached saturation point. There is only a part-time surgery, the schools are over-subscribed, and trains are already full at peak times.

**vi) Leeds & Liverpool Canal Society (In Document O1)**

135. In the Lower Aire valley, the canal passes through a diverse landscape, where built-up and industrial areas are interspersed with open rural views. This gives this section its definitive character, which is continually under pressure from canalside development. Bingley Five Rise Locks, one of the few grade I listed structures on the canal system, are nearby. Their importance lies in the view from the Aire valley of the locks going up the side of the valley, showing man overcoming nature and his influence on the environment. Any development which impinges on this view would be detrimental to the importance of the structure.
136. Many of the swing bridges on the canal have been increased in size to cope with modern traffic. A bridge at Aintree possibly has a similar traffic density to that which would occur at Micklethwaite Lane, and there British Waterways controls the passage of boats because of problems with traffic volume and vandalism. A few other bridges have been improved for heavy traffic usage, but problems have arisen when there have been mechanical or electrical faults. None provide access to the density of population proposed here, and it is expected that similar problems would arise. Moreover this would be the largest swing bridge, and it would, therefore, be out of character with the canal as a whole.
137. The canal is under-used in comparison with others on the network. It is expected that leisure usage will increase, and for this reason it is important to maintain the canal's environment and ease of operation.

**vii) Micklethwaite Village Society (Document O10)**

138. The one-way system on Sty Lane would oblige all north-bound traffic to use Micklethwaite Lane and Carr Lane. These roads are narrow, winding and steep. Footways are narrow and are only present from the south up to Beck Road in the village. Stretches of the roads are used for parking. The bend north of Beck Road is the point of greatest constriction, at 4.2m. Reversing on this steep and narrow part of the highway is common. Collisions occur between vehicles and of vehicles with walls<sup>50</sup>, although these are seldom officially recorded. Large vehicles get stuck and problems occur when they meet<sup>51</sup>. To the north, the Otley

<sup>50</sup> Photo 3 in Document O10 shows a broken wall in the village.

<sup>51</sup> Photos 6, 7 and 4 in Document O10.

Road/ Carr Lane junction is hazardous due to its steepness, narrowness, the volume and speed of traffic on Otley Road, and the difficulty of vehicles entering and leaving Carr Lane together<sup>52</sup>.

139. Whereas it was anticipated that traffic on the moorland roads would be reduced by 30% following the opening of the Bingley bypass (above, para 125), the POPE study records a reduction of no more than 20% to the west of the Carr Lane/ Otley Road junction and an increase of up to 3% to the east. The appellants' suggestion that only up to 5% of development traffic would use Micklethwaite Lane and Carr Lane is too low. Experience and the observations of local residents suggest a higher proportion than the 10% put forward by GAG. The variability and unpredictability of the swing bridge would increase the propensity of drivers to turn north. When a problem occurs with the bridge, during the response time to open the emergency access the sole egress for the proposed development, the dwellings proposed south of Airedale house and existing houses in the village, would be through Micklethwaite. The proposals would create hazardous conditions in the village and the junction to the north is unsuitable for the increase in traffic which would occur.

#### **viii) Pennine Walking Group (Document O7)**

140. The rich industrial heritage has left an attractive setting for Micklethwaite Bridge, with the surrounding buildings and countryside. The proposed development, including the larger new bridge, would affect the conservation of the canal. British Waterways is developing an activity plan for Five Rise Locks and Bingley North Bog (Document GAG6): visitors will travel up to Micklethwaite Bridge, but the proposals would detract from the aesthetic qualities of this area. Moreover, the proportion and alignment of the larger bridge would be out of keeping with historic buildings in the locality and with the canal. The bridge would also destroy at least part of the nearby wall containing the stone chambers.

#### **ix) Local residents**

141. Thirteen local residents spoke against the proposals at the inquiry. Several addressed highway matters and the operation of the swing bridge (Documents O9/1, O15-O18). One resident suggested that about 5% of boats passing the bridge had a crew of one, and took longer to pass through. Micklethwaite Lane is likely to be used by traffic on journeys to and from the north of the site. It is of restricted width and the junction of Carr Lane/ Otley Road is considered hazardous. When the bridge is out of use to vehicles, until the emergency access is opened Micklethwaite Lane would be the only route out for vehicles from the new housing and those from existing properties along the road. Visibility at the junction of Oakwood Drive and Lady Lane is substandard. The one-way system on Sty Lane would cause inconvenience to existing residents. The reliability of the replacement bridge is queried, and there is concern about its effect on traffic movement, and in particular on the prospect of delays for the emergency services. Bradley swing bridge, which is similar to the proposed replacement, is considered unreliable and is reported to break down more frequently than the existing Micklethwaite bridge.

<sup>52</sup> Photograph 5 in Document O10, and two photographs of the junction at the bottom of page 4 of Document O17.

142. Two residents referred to landscape and ecology matters (Documents O13, O14). The change in landscape character would have a significant adverse effect on the setting of the Leeds & Liverpool Canal Conservation Area and the setting of popular recreational routes. Residential development would damage hedgerows, which are a habitat and also provide a network of linear features used by wildlife crossing site A. The proposed development would conflict with Policies BH10, BH20 and NE13 of the UDP.
143. One resident was particularly concerned about the effect of the proposals on Crossflatts. The footbridge would result in a loss of visual amenity and would bring additional traffic into Canal Road which is already congested. Parking problems would be exacerbated and there has already been a huge increase in commuter traffic due to other developments. Occupiers of the houses at the cul-de-sac end of Oakwood Drive argued that the extent of their ownership included land required for access to site A and which they had no intention of selling. Copies of registers of titles and other documentation was submitted in support of this position (Documents O5/1-2, O6).

### Written Representations

*The material points are:*

#### **i) Bingley Civic Trust<sup>53</sup>** (in Document O1)

144. Access for the amount of traffic anticipated to the housing development cannot be achieved in a safe and satisfactory manner by the replacement swing bridge. The link between Micklethwaite and its approach route would be lost, due to re-direction through a housing estate, causing damage to the character and setting of Micklethwaite Conservation Area. Site A also provides a valued and open setting to the Leeds & Liverpool Canal Conservation Area. The existing bridge is compatible with the scale and setting of the canal, whereas the increased size of the replacement would have a greater locational and visual impact.

#### **ii) Campaign to Protect Rural England – Yorkshire and Humber** (in Document O1)

145. Increased traffic flows through Micklethwaite are inevitable, and the proposals would be unsustainable in respect of their impact on transport infrastructure. Sustainability is also called into question as it is considered that the scale of housing would not be matched by supporting services. The loss of greenfield land would have a negative impact on important views which contribute to the setting of the Leeds & Liverpool Canal Conservation Area, and there would be a detrimental impact on the semi-rural identity of the area. Concern is also expressed about the effect on the setting of Micklethwaite Conservation Area, and listed and key heritage buildings.

#### **iii) Other representations** (in Document O1)

146. Hainsworths Boat Transport and 22 local residents<sup>54</sup> submitted objections to one or more of the appeal proposals. Hainsworths operate the boat yard

<sup>53</sup> Although Bingley Civic Trust appeared at the inquiry, its representative did not add to the written representations previously submitted.

<sup>54</sup> This number excludes the written representations from Mr Kunz who appeared at the inquiry, and whose objections are encompassed in paragraph 139.

adjacent to the south-west boundary of site A. Access to the yard is taken from Fairfax Road, and the firm is concerned that there could be conflict between vehicles, some of which are large, using the access, and pedestrians and cyclists using the access to the site at the end of Fairfax Road.

147. The main concerns raised by local residents are: the road network to the north is unsuitable for additional traffic and the development would reduce highway safety, the larger swing bridge would have a greater visual impact but would not comfortably accommodate two-way traffic, the unsuitability of a swing bridge to provide the main access to the proposed housing development, harm to the character and appearance of the area, including the two conservation areas, the effect on wildlife, and the pressure on the local infrastructure. At application stage, over 2,500 individual objections were made to proposal A, over 30 to proposal B, and over 20 to proposal C, in which similar concerns were expressed. In addition, objectors referred to sustainability and the effect on heritage assets.

### **Conditions**

148. The Council and appellants submitted lists of possible conditions for each proposal which were discussed at the inquiry (Documents G10/1-2). In respect of each proposal it is important that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.

### ***Proposal A – Residential development (outline) and other works including the replacement swing bridge***

149. To ensure that the development would make a positive contribution to its surroundings, reserved matters should be consistent with the parameter plans and the provisions of the landscape strategy report and the design and access statement. Matters of detail concerning landscaping are more appropriately dealt with as part of the consideration of reserved matters. To ensure delivery of the number of houses intended these should be specified for the reserved matters submission. Given the size of the development, phasing is important to assist in assimilating the new housing into the local community and its surroundings. For the same reason I agree with the Council and the appellants that the time-limit for the application for reserved matters should be extended to five years.
150. In the interest of highway safety, conditions are necessary concerning the site accesses, including the footbridge, and the off-site highway works. Given the importance of the footbridge in providing accessibility to Crossflatts, no more than 100 houses should be built before the footbridge is provided. During the period when the swing bridge is replaced, a temporary foot bridge should be erected and an approved diversion route put in place to maintain access across the canal.
151. To ensure that the development would be in keeping with its surroundings, permitted development rights should be restricted concerning means of enclosure. For the same reason further details of works relating to the swing bridge should be submitted for approval, as should a protection scheme to safeguard retained trees and hedgerows. In the interest of nature conservation, an ecology and landscape management strategy, and an ecological assessment should be submitted, and surveys undertaken to check for breeding birds and otters prior to site works. Details of external lighting in the vicinity of the canal

should also be submitted for approval to minimise disruption to the movement of bats and to avoid light pollution, and a construction management scheme is required in the interest of environmental protection. There is historical interest on the site, and accordingly provision should be made for archaeological recording, and protective fencing should be erected around the carved rock.

152. Detailed schemes should be submitted to ensure that the site would be satisfactorily drained. To ensure that the site would provide satisfactory living conditions, an investigation of ground conditions and remediation proposals would be necessary. To protect the living conditions of both future residents and neighbours hours of work should be controlled, and a construction plan approved covering matters such as deliveries, wheel washing and site storage. It is important that the integrity of the canal is protected, and details of nearby excavations and of works to the canal wall should, therefore, be submitted for approval. For similar reasons, the sewer easement across the site should be kept clear of buildings and other structures. Finally to contribute to a sustainable form of development, the proposed dwellings should achieve at least level 3 of the Code for Sustainable Homes.

### ***Proposal B – Replacement swing bridge***

153. For the reasons given in respect of proposal A, conditions would be necessary concerning a temporary footbridge and diversion route, details of works relating to the swing bridge, canal wall and excavation, tree protection, external lighting, surveys relating to breeding birds and otters, a construction management scheme, archaeological recording, a construction plan and hours of work. In addition a landscaping scheme should be submitted for approval to ensure that the development would be in keeping with its surroundings.

### ***Proposal C – Removal of existing swing bridge***

154. To avoid a prolonged period without a canal crossing on Micklethwaite Lane, the removal of the existing bridge should only take place once a contract has been let for the installation of the replacement bridge. For the reason given in respect of proposal A, a condition would also be necessary concerning a temporary footbridge and diversion route
155. Suggested conditions for each proposal are set out in full in Annex 1 to this report.

## **Conclusions**

*References are made, where appropriate, to sources of material in earlier parts of the report by indicating the relevant paragraph number thus [8].*

### **Main Considerations**

156. I have identified the following main considerations in these cases:

- (i) Whether the housing proposal represents a sustainable form of development.
- (ii) The effect of proposals A and B on highway safety and the movement of road users, particularly on Micklethwaite Lane and at the Oakwood Drive/ Lady Lane junction.
- (iii) The effect of the proposals on the character and appearance of the area, including heritage assets and the landscape.
- (iv) The effect of proposal A on the recreational value of the Leeds & Liverpool Canal.
- (v) Whether the housing proposal would be consistent with policies in the Development Plan.

### **Sustainability**

#### *Site location*

157. Policies in both the RS and the UDP promote sustainable patterns of development. Policy YH7 of the RS sets out a sequential approach to the distribution of sites in LDFs [28]. It seeks to guide development to locations within towns and cities in the first instance, with urban extensions being a third priority. In similar vein, Policy UDP1 of the UDP seeks to focus new development on the urban areas [32]. Site A is immediately adjacent to the built-up areas of Bingley to the east and south-east and of Crossflatts to the south-west, and the appeal proposal would represent an urban extension. Although such a location is not a first priority under the RS, it is identified as a potential prospect. The development accords more closely with the UDP as an extension represents one way in which development is focussed on an urban area, and the location strategy for Shipley Constituency identifies Bingley as one of the most sustainable locations in this part of the District [32]. With the expected revocation of the RS [31], I place greater weight on the approach of the UDP. Moreover, given its position between Bingley and Crossflatts, the appeal site is contained to a significant extent by the existing built-up areas, and it would not represent an awkward and poorly-related extension.

158. The appropriateness of Bingley as a location for further development is reinforced by the emerging Core Strategy: Policy SC4 puts forward a hierarchy of settlements to establish a sustainable pattern of growth, in which Bingley is identified as a principal town [38]. As such it is intended to be a main local focus for housing and other development. I consider that the location and scale of the housing proposed on the appeal site would be consistent with policies promoting a sustainable pattern of development in Bradford.

*Accessibility by non-car modes*

159. Site A is adjacent to the existing built-up area, but the canal runs between it and Crossflatts. There would be access in this direction via the new swing bridge, and it is proposed that an additional crossing for pedestrians would be provided in the form of a footbridge in the vicinity of Canal Road [24]. This bridge does not form part of the access details included in proposal A, nor is it intended that the appellants would bring it forward at a subsequent stage. Provision of the bridge would be the responsibility of the Council, with funding for this purpose provided by the appellants through the means of the planning obligation [13]. The footbridge is also included in the travel plan, which has objectives to minimise single occupancy vehicle trips and to encourage residents to travel by sustainable modes, consistent with Policy T1 of the RS.
160. The planning obligation would provide a sum of £500,000 towards the cost of construction and future maintenance of the footbridge. There is no detailed evidence before me of the breakdown of costings for such a bridge, and it is clear that a detailed design has not yet been finalised. Whilst the appellants and the Council may be confident that the specified sum is sufficient, in the absence of any detail on this matter I cannot be certain of the position. Concerns about land ownership on the west bank of the canal were raised. I heard that this land is in the ownership of British Waterways, and as that organisation is a party to the planning obligation I anticipate that questions of land ownership are capable of resolution. The implications of a footbridge for the character and appearance of the area I consider elsewhere.
161. The terms of the planning obligation do not specifically require the Council to provide the footbridge. Under schedule 2, it covenants to use the sums received for the purposes specified, but it also covenants to repay any sum not so expended. At the inquiry, the Council suggested that it may be vulnerable to judicial review if the footbridge were not provided, and its planning witness expressed the view that there was a firm commitment to provide the bridge. Be that as it may, there is no documentary evidence to substantiate that commitment, and I do not consider that the terms of the planning obligation are sufficiently robust to remove any doubt about the deliverability of the footbridge. The appellants offered to accept a condition to deal with this matter. Notwithstanding the uncertainty concerning costings, it cannot be said that there is no prospect at all of the action in question being performed. Accordingly I do not consider that a negatively worded condition to prevent development without the footbridge would conflict with the policy set out in Circular 11/95. On this basis, I have taken the presence of the footbridge into account in assessing accessibility between the site and Crossflatts.
162. There is a range of facilities and services available in Crossflatts [17]. The appellants and GAG both make reference to IHT guidance on walking distances [42, 64, 117]. From the northern part of the development, the primary and grammar schools would be within the distance of 1km identified as acceptable in the IHT guidance: a somewhat shorter distance of 800m applies to other facilities, and some shops, the post office, a surgery, a public house, and a recreation ground would be within an acceptable distance of 800m. Most of these facilities and services are also within acceptable distances measured from the centre of the site: the primary school would be just over 1km away on certain routes, but it would still be well inside the 2km preferred maximum

walking distance. From the southern end of the site, the presence of the footbridge would make a significant difference, ensuring that several facilities and services could be reached within acceptable distances. Pedestrian access into the primary school from the canal towpath keeps the walking distance in this case to not much more than 1km. Castlefields Industrial Estate is a potential source of local employment opportunities: it is about 1.1km from the furthest part of the site, compared with a maximum recommended walking distance of 2km for commuting. The various facilities in Crossflatts are generally located along or close to Keighley Road, which runs in the valley bottom at a lower level than the appeal site. Return journeys on foot would ascend to the nearest part of the site by the canal, and the site itself rises to the north-east. However the routes up to the canal from Keighley Road are not prolonged, and it is likely that, on the site, journeys would involve walking across the slope in addition to moving towards higher ground. I find that site A generally performs well in terms of accessibility by walking to local destinations in Crossflatts.

163. The canal towpath is part of a national cycling route, providing an alternative to using the roads in the directions of Bingley and Keighley. Bingley is about 2km from the site. Keighley is further away, but I consider that the appellants' measurement of the distance at up to about 5.5km more accurately reflects the distance to the town centre than the 7.3km given by GAG [64, 117]. I do not consider that these distances to places along the Aire valley would be excessive for journeys by bike, and I consider that cycling is a realistic option for future residents of the appeal site.
164. Both bus and rail services operate along the Aire valley. IHT guidance specifies that the walking distance to a bus stop should not exceed 400m whereas about 800m is acceptable for a railway station. Most of the site is no further than 800m from the station, from where there are trains on services to Leeds, Bradford and Skipton. However, other than the northern part, most of the site exceeds the 400m threshold for walking distance to the bus stops on Keighley Road. Overall there are 10 buses an hour along Keighley Road during the daytime, providing services to Bingley and Keighley, and also to Leeds and Bradford. As part of the travel plan, travel cards covering bus and rail services in West Yorkshire would be available for 60% of households. The three year scheme would provide free cards in year one with discounts of 40% and 25% in the subsequent years. This measure should encourage the use of public transport, notwithstanding the distances to the nearest bus stops. Overall, I consider that there would be a reasonable level of accessibility for the site by public transport.

#### *Other potential sites*

165. Site A performs well in a comparative sustainability appraisal of potential housing sites in the Bingley/ Shipley market sub-area [65]. None of the other sites in the final sieve appears to score more highly, and the appeal site is the largest remaining at that stage in the exercise, and one of only three in Bingley.

#### *Conclusions on sustainability*

166. Although the appeal site is greenfield land, it is well-located in relation to the built-up areas and their form in the locality. Overall there is a reasonable level of accessibility by non-car modes of transport, having regard to the measures in the travel plan, and accordingly the proposal would be consistent with the objective



to use sustainable transport modes in paragraph 34 of the Framework. Housing supply and environmental considerations which also contribute to overall sustainability credentials are addressed elsewhere in this report. Insofar as location and transport modes are concerned, I conclude that the housing proposal represents a sustainable form of development, and that it would thereby comply with Policy YH1 of the RS and Policy UDP1 of the UDP.

### ***Highway safety and the movement of road users***

#### *Trip rates*

167. The DCLG/DfT publication *Guidance on Transport Assessment* recommends that 85<sup>th</sup> %ile trip generation rates should be considered as a starting point in the development scenario if sites with comparable accessibility as well as scale and location cannot be found through a standard database system. The guidance also explains that the methodology should be agreed with the relevant authorities. In this case, the appellants had initially used 85<sup>th</sup> %ile trip rates, but following discussions with the Council, it was agreed that 50<sup>th</sup> %ile trip rates should be employed [44]. These were considered to be more realistic having regard to the location of site A and the proposals for pedestrian infrastructure. GAG, however, argued that 85<sup>th</sup> %ile trip rates are more appropriate [108], and is critical of the sites used for comparison purposes.
168. GAG is critical of the nature of sites included in a TRICS analysis referred to in Miss France's rebuttal evidence for the appellants [58], given that several include flats and each is significantly smaller than the appeal proposal [108]. However, this analysis was undertaken by way of a further comparison, and Miss France points out that the parameters used in this exercise did not allow a selection of 20 sites as recommended in the TRICS Good Practice Guide. Another exercise, taking account of mixed private/ non-private housing is referred to in Miss France's proof of evidence, and this similarly draws on a limited number of comparison sites [58]. The relevant 50<sup>th</sup> %ile trip rates, and those agreed between the appellants and the Council, are from the comprehensive transport assessment (CTA) which are set out in the highways statement of common ground.
169. GAG criticises the inclusion of a site with a high level of public transport accessibility from London in the data set used in the CTA analysis, but this is the only site so identified. Analysis of the latest version of the database by GAG, with a refined set of sites taking account of location and car ownership levels, gives similar average trip rates [108].
170. Both GAG and the appellants make reference to car ownership levels, but I find this information inconclusive. The appellants point out that, in the super output area of Bingley ward within which the site lies, car ownership in 2001 was 1.01 per household, compared with 1.585 for the area to the south-east including Oakwood Drive [58]. However, elsewhere they refer to similarities with Oakwood Drive, which they calculate as having am and pm peak trip rates of 0.522 and 0.66 respectively. For its part, GAG refers to an ownership level of 1.39 in Rombalds Ward, which included site A until 2009 [108]. Much of the housing in this ward, however, was some distance away at Menston and Burley-in-Wharfedale.

171. As an exercise intended to validate the use of 85<sup>th</sup>ile trip rates, GAG has assessed the modal distribution of person trips in four census output areas around and including the site. The assessment shows that vehicle occupants accounting for 85.02% of those travelling to work [108], but the figures appear to include those making the journey by bus, minibus or coach. Excluding this category brings the proportion down to 78.7%, similar to that in the CTA.
172. It is intended that up to 30% of the development would be affordable housing, a proportion which is specified in the planning obligation [13]. Moreover, the site is on the edge of the built-up area of Crossflatts [16], and with the pedestrian links proposed, the dwellings would be within walking distance of a range of facilities and services there [24]. On the information before me, I am satisfied that the use of average trip rates, as set out in the highway statement of common ground is appropriate in this case.

*The replacement swing bridge*

173. The existing bridge across Micklethwaite Lane is only wide enough to carry traffic in one direction, and it has no footway [20]. Whilst the bridge swings in response to operation of the control pedestal, the barriers have to be moved across the road and back again manually. The proposal is for a fully automated bridge in which operation of the bridge and the barriers both respond to a single action at the pedestal. The bridge would have a 4.8m wide carriageway and a separate footway [23].
174. Much detailed information was submitted on the length of time for which the bridge would be closed to vehicles. Insofar as the existing bridge is concerned, GAG's figures are for an average closure of 4mins 43 secs, and an average 7 closures of the bridge per day [109]. The appellants' figures range from 3min 50 secs to 4min 22sec, with the number of closures varying between 8 and 13 [59]. GAG referred to the evidence of Mr Pinchbeck that single person crewed boats, which take longer to pass the bridge, are involved in about 5% of closures [109]. Whilst a number of boats are operated by a single person, there is no survey data to substantiate the proportion given, and it carries only limited weight.
175. The appellants have calculated the closure time of the replacement bridge on the basis of the time for the bridge to complete its closing and opening swings together with the dwell time derived from analysis of the GAG DVDs. This gives a closure time to road vehicles of 2min 51sec for a single boat passage and 4min 12sec for a two boat passage [59]. No alternative assessments of closure time are submitted<sup>55</sup>, and GAG acknowledged that it did not mount a substantive challenge to the technical evidence of the appellants concerning the operation of the new bridge. Consequently, I do not doubt that the new bridge should be capable of completing a closure cycle more quickly than the existing structure.
176. The existing swing bridge was installed in 1985. It is the evidence of one of the appellants' bridge experts that, after this length of time, if it were not replaced, it would require significant refurbishment [56]. Such work would be likely to involve closure of the bridge to road vehicles.

<sup>55</sup> Mr Gelder's rebuttal proof for the Council refers to a closure time of 4mins 5sec in his original proof. However a revised version omits the sub-section in which this information appeared, and the appendix on which it was based was withdrawn at the inquiry.

177. The Council is responsible for two bridges over the canal. Based on its experience it estimates that road closures of up to 24 hours per year can be expected [86]. Call-out logs for these two bridges indicate several incidents necessitating road closures, although it is not clear that the information provides a comprehensive record of the number and duration of closures. The appellants calculate that road closures of about 3 hours per year could occur for faults in categories of up to 6 hours duration, and that more serious breakdowns could result in closures of 3-7 days every 10 years [56]. These figures are subject to assumptions, particularly concerning the proportion of incidents in which a bridge would be left in the road closed position. I do not doubt that a new bridge should be more reliable than one which is over 25 years old, but the occurrence of faults cannot be discounted.
178. The Council calculates that, in the event of a breakdown, a response involving the opening of the emergency access would be likely to take at least one hour [86]. The bridge would be the responsibility of British Waterways, who would attend in the first instance to deal with the situation. If the problem could not be readily resolved, contact would then be made with the Council which would instigate its own call-out arrangements. In these circumstances, involving the collection of temporary traffic signals from a depot, I consider that a period of one hour would be the minimum before the alternative route for traffic via Oakwood Drive would be brought into use.

*Effect on the highway network when the bridge is operational*

179. Breakdowns and planned maintenance aside, the swing bridge will close from time to time to allow the passage of boats along the canal. I have found that in assessing the effect of the proposed housing development it is appropriate to use 50<sup>th</sup> %ile trip generation rates (above, paras 167-172). It follows that I consider the levels of trips put forward by the appellants are those which should be taken into account in assessing the effect on the highway network [58]. On this basis, the northbound queue in the pm peak would be 18 cars, compared with a carriageway length to the traffic signals at the junction with Keighley Road which could accommodate 30 cars [60]. In contrast, GAG argues that the queue from the closed bridge would encroach into the junction. Whereas the appellants have calculated queue lengths using road closure times of the new bridge, GAG's figure is based on its closure time of 4mins 43secs for the existing bridge. Whilst GAG suggested that there was nothing to require the appellants to provide a bridge operating at the times given [110], it did not mount a substantive challenge to the technical evidence of the appellants on this matter. The design of the bridge is at a relatively advanced stage, and I have no reason to doubt that the timings could be achieved: I consider that the approach of the appellants is more realistic, and I do not consider that queues would interfere with movement through the Keighley Road junction.
180. Moreover, not only is the number of closures relatively small, but the evidence is that they do not generally occur during peak periods for road vehicle movement. The appellants' analysis of the GAG DVDs reveals only 5 of 48 closures occurring at peak times [60], and GAG's survey shows a bank holiday as generating the highest number of bridge operations [109]. This is consistent with the use of the canal for leisure boating. The carriageway width of 4.8m would enable most vehicles to pass on the bridge, and consequently,

notwithstanding GAG's misgivings in this regard [109], I consider that queues would dissipate quite quickly following the reopening of the bridge to traffic.

181. The appellants consider that the greater part of the traffic using the Micklethwaite access would travel to and from the site from the southern section of Micklethwaite Lane, which leads towards the A650 (the Bingley bypass). The site could also be reached from the north, along Carr Lane and the northern section of Micklethwaite Lane. The appellants' highway witness suggests that up to 5% of traffic may use this route [58], and her assessment of commuter traffic is consistent with this level. Whilst GAG's highway witness had referred to 10% in his proof, at the inquiry he suggested that the proportion of movement on this route would be more likely to be 4% [106]. Micklethwaite Village Society suggests a higher proportion than 10% [139], derived from local experience and observations, but the weight of considerations points to a lower proportion.
182. The narrowness, severe bends and the constrained nature of the Carr Lane/Otley Road junction are all factors which tell against the suitability of this route for significant levels of traffic movement [106-107]. However, 5% of traffic from the proposed housing development would result in only about 12 additional peak hour trips [58], and I do not consider that this level of traffic movement would materially alter the pattern of movement along the road through Micklethwaite village, or increase the prospect of conflict between road users.
183. A particular concern of local representatives, organisations and residents is potential delays to emergency services due to the effect of bridge closures on traffic movement [130, 134, 141]. Given the limited number of daily bridge openings, and their shorter duration with the new bridge, I do not consider that the proposal would give rise to an unacceptable situation in this respect. Taking account of all the representations on this matter, I find that the proposals would not adversely affect the movement of road users and highway safety when the proposed swing bridge is operational.

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

184. The Council has assessed the effect of the proposal using an Aimsun micro-simulation model. This type of model is suited to representing performance on a network, as opposed to an individual junction. Whilst the appellants acknowledged this, they were critical of the lack of formal validation and a number of detailed inputs. There is nothing before me to indicate that the Council has not used the model appropriately, and I note that Interim Advice Note 36/01 explains that the form of validation should be appropriate for the exercise. Robust outcomes are important in this case, which points to the value of a more formal validation process. Whilst its absence does not indicate that the model results should be disregarded, it does lessen the weight they carry.
185. The Council's highway witness explained that delays of 180 seconds or more at signalised junctions and of 120 seconds or more elsewhere are taken to indicate a problem in the network. During the pm peak in 2016, the average delay on Main Street (north) at the Main Street/ Park Road signalised junction is predicted to be 180secs. No other instances of delays at or in excess of the time thresholds are identified in the model results submitted by the Council for the scenario when the emergency access is in use. Maximum queue lengths of 30 or more vehicles are forecast on Main Street (both peaks), Park Road (pm) and Lady Lane (both peaks), and of 75 vehicles on Oakwood Drive in the am peak

[91]. However in each of these cases the average queue length is significantly less. Moreover there is no comparable data before me to indicate the predicted junction performance without the development traffic.

186. Local residents and the Micklethwaite Village Society have expressed concern generally about traffic levels on Micklethwaite Lane and Carr Lane [139, 141]. However the Aimsun model does not indicate congestion on this road or the junction with Otley Road when the emergency access is open, and in the view of the Council's highway witness only a small percentage of traffic would use this route in this situation. On the information before me, I do not consider that appeal proposal A would 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.

*Effect on the highway network when the swing bridge is closed to road traffic and before the emergency access is in use*

187. On occasions when the swing bridge is closed to road traffic, there will be a period of time, which I consider is likely to be at least one hour, before the emergency access onto Oakwood Drive is opened (above, para 178). In the event that an incident is resolved relatively quickly the sequence of events may not progress to open the link to Oakwood Drive, but access arrangements would be similarly affected.
188. Whilst vehicles approaching the greater part of the site, which would be accessed from the west, could use Micklethwaite Lane and Greenhill Lane/ Sty Lane, all traffic leaving from up to 418 dwellings would have to travel north along Micklethwaite Lane because of the one-way system proposed on Sty Lane. Although the variable message signs may be activated promptly, there would be no opportunity for use of a different route by traffic leaving the site prior to the opening of the emergency access.
189. The Aimsun Model predicts average delays of 171secs and 190secs on the Main Street (north) and Park Road arms of that junction during the 2016 pm peak, with maximum queue lengths of 38 and 29 vehicles respectively. Whilst the delay on Park Road is somewhat longer, these figures for this part of the assessed network do not otherwise differ greatly from those given for the scenario with the emergency access open. However there is a marked difference to the north during the am peak. At the Morton Lane/ Keighley Road junction, average and maximum queues of 19 and 60 vehicles are predicted to occur in 2016, compared with 6 and 20 when the emergency access is open. More significantly, at the Carr Lane/ Otley Road junction, queue lengths of 28 (average) and 82 (maximum) are predicted, whereas a maximum queue of 2 vehicles is forecast when the link to Oakwood Drive is available. Furthermore, the average delay in the am peak is given as 263secs, well in excess of the 120secs threshold used by the Council for a non-signalised junction. In view of the absence of formal validation of the modelling exercise, these outputs do not carry full weight. However, they are important as an indication of the level of additional impact on this part of the highway network prior to the opening of the emergency access.
190. The appellants' 2011 traffic survey shows low levels of traffic movement on this route. South of the village, flows of 42 and 48 vehicles were recorded in the am and pm peaks, and lower levels of 18 and 23 on Carr Lane at the junction

with Otley Road [58]. Councillors Ellis and Heseltine suggested that, contrary to anticipation in the UDP inquiry report, traffic numbers had increased on the moorland roads since the opening of the Bingley bypass [125, 129]. However whilst the POPE report does identify increases on Otley Road to the east of the Carr Lane junction, I note that it also shows lower levels of traffic movement to the west. Survey information from 2000 shows flows of 66 and 71 vehicles during the morning and afternoon peak periods south of Micklethwaite [58], and the information before me does indicate that there has been a reduction in the number of vehicles passing through along this stretch of road.

191. The information available on the distribution of traffic movements when the swing bridge is operating normally or when the emergency access is open, indicates that only a modest level of additional traffic would use the northern route through Micklethwaite at these times, and this should be able to be accommodated. However, in the period before the emergency access is opened, traffic levels on Micklethwaite Lane and Carr Lane would increase much more substantially. Given the lack of an alternative route away from site A for up to 418 dwellings, I consider that it would be likely to significantly outweigh the reduction in movement recorded between 2000 and 2011, resulting in a material increase in the number of trips between the site and Otley Road.
192. Carr Lane rises as it approaches the priority junction with Otley Road. This stretch of Otley Road is itself on a gradient sloping down to the west. I observed the junction both on foot and from the front seat of a vehicle emerging from Carr Lane. There are stone walls on each side of the junction, together with vegetation to the east. Visibility in both directions is significantly restricted as a result, and turning out of Carr Lane is made more difficult by the uphill gradient of that road [107, 138].
193. Substantial lengths of Micklethwaite Lane and Carr Lane are relatively narrow [106]. The appellants had no significant disagreement with measurements submitted by GAG and did not dispute those from the Micklethwaite Village Society, which show several points with a width of less than 4.8m. Whilst the diagram on page 79 of Manual for Streets shows that two cars can pass on a carriageway of 4.1m, there is little tolerance below 4.8m. In places, particularly south of Beck Road the carriageway is effectively narrowed by on-street parking. The footway only extends as far north as Beck Road in the village, and in several places it is less than 1m wide. Towards the northern end of the village is a pronounced double bend as the road climbs to the north. Due to the combination of these characteristics, and the restricted form of the junction with Otley Road, I consider that any material increase in traffic levels is likely to increase the prospect of conflict between road users. There is no record of injury accidents occurring during the five year period of 2006-2011 [57], but this is in the context of low levels of traffic movement.
194. The evidence is that incidents necessitating closure of the bridge would occur infrequently (above, para 177), and variable message signs would advise of available routes. Nevertheless, were such an incident to occur this would involve the reassignment of the majority of traffic movements to and from the greater part of site A. Two-way traffic movements from this part of the site have been calculated as 242 in the am peak and 243 in the pm peak [58]. Inward traffic would not be solely reliant on the route through Micklethwaite, and could use Greenhill Lane/ Sty Lane. However, 175 and 94 movements in the am and pm

peaks respectively would be departures which would have no alternative route to Micklethwaite Lane and Carr Lane prior to the opening of the emergency access, and the majority of these vehicles would have previously travelled south towards Keighley Road. Even with the lower levels of traffic movement generated at other times of the day, I consider that, 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. I find that in this circumstance proposal A would conflict with Policies TM2 and TM19A of the UDP. It would also fail to comply with the policy in paragraph 32 of the Framework that safe and suitable access to a development site should be achieved for all people.

#### *Oakwood Drive/ Lady Lane junction*

195. Visibility at the Oakwood Drive/ Lady Lane junction for drivers emerging from Oakwood Drive is deficient [48]. Due to uncertainty about the conditions under which the speed measurements on Lady Lane included in the highway statement of common ground, the appellants undertook a further survey which gives the 85<sup>th</sup> %ile wet weather speeds. Applying the approach in Manual for Streets 2 gives requirements for splays of 51.68m to the left and 48.4m to the right [54]. In contrast, visibility only extends 15.6m to the left and 12.3m to the right in these directions [92]. The amended scheme would provide visibility of 52m to the left, taking the splay to the proposed centre island, and 27m to the right. This scheme is dependent upon traffic regulation orders to restrict parking on Lady Lane. Having regard to off-street parking at dwellings on Lady Lane, I do not consider that there is no prospect of the TRO coming forward. Accordingly, a negatively worded condition could ensure that development of the dwellings to be served from Oakwood Drive only proceeded once the TRO was in place. The appellants also suggested that the scheme, together with variable message signs to be installed on Lady Lane, would have the effect of reducing vehicle speeds by 5-8mph, but the evidence is not conclusive on this point [54, 94].
196. GAG referred to a nearby site on Lady Lane where compliance had been required with the full visibility standards. However, the addition of 22 dwellings to the 178 currently served by Oakwood Drive [44] would not materially alter the pattern of movement at the junction. Whilst the junction would still fail to achieve full compliance with the standard of visibility set out in Manual for Streets, the proposed scheme would represent a significant improvement on the current situation, and this would represent a benefit to the existing users. Overall, I do not consider that the use of the improved junction to serve as permanent access to an additional 22 houses would adversely affect highway safety.
197. With Micklethwaite Bridge closed to road traffic and the emergency access in use, Oakwood Drive would provide access not only to the whole of the proposed housing development, but also to existing premises at Airedale Mills and in Micklethwaite. I have already considered the effect of this circumstance on the performance of the network overall (above, paras 184-186). Visibility would be addressed by the deployment of temporary traffic signals as part of the emergency access arrangements. With control of traffic movements from the several arms of the junction in place, the level of increased vehicle movements would not unacceptably reduce safety.

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*Airedale Mills*

198. Closure of Micklethwaite Lane for a nine week period as part of the bridge replacement works would involve a diversion in making journeys to and from premises on the north side of the swing bridge. In respect of proposal B, the Council has expressed concern about the effect of such additional traffic generally through Micklethwaite and in particular about the use of this route by large commercial vehicles from the business premises at Airedale Mills [95].
199. No details about the total number of trips generated by the premises on that part of Micklethwaite Lane between the bridge and Sty Lane are before me, but there is a relatively small grouping of residential and business properties in that area. Some journeys may already be made to the north, and I anticipate that the additional traffic would be markedly less than that from site A prior to the opening of the emergency access. As such, I do not consider that, in general terms, additional traffic from Airedale Mills would be unacceptable for the duration of the road closure.
200. Insofar as larger commercial vehicles are concerned, the evidence is conflicting. The main parties disagree as to whether the largest commercial vehicle involved in servicing the premises is 26 or 32 tonnes in size [61, 95], and there is no direct evidence from the firm concerned. However, the Council's evidence indicates that only about three such trips would be made during the construction closure period, and I am mindful that any such re-routing would occur occasionally when the existing bridge is closed to road traffic. In this regard there is evidence that significant refurbishment could be required in the foreseeable future [56]. In these circumstances, I do not consider that the re-routing of commercial vehicles would unacceptably reduce highway safety on roads to the north of Micklethwaite Bridge.
201. Details of the replacement swing bridge are included in proposal A, but the Council's decision notice includes no reason concerning the effect of the road closure during the construction period. It was suggested that these concerns should also relate to appeal A, but that the need for closure was not apparent then [94]. I place little weight on this argument. The CTA, which was before the Council when it determined the planning application, refers to bridge closure at construction stage (albeit for a six week period), and the Council made no objection. It is inconsistent to add this reason in respect of proposal B, with no indication of any material change in circumstances.

*Sty Lane*

202. Proposal A includes the introduction of a one-way system along Sty Lane [23]. Vehicles would only be able to travel in a westerly direction, towards Micklethwaite Lane. This element would be subject to the making of a TRO, but as an important part of the overall highway proposals, its implications are appropriately considered as part of the appeals. The inability to travel eastwards along Sty Lane would inevitably cause some inconvenience to existing local residents who live on and in the vicinity of Greenhill Lane [119, 141]. However there is a sharp bend just to the east of the junction with Woodside, and Greenhill Lane, into which Sty Lane continues, then joins Lady Lane/ Walsh Lane at a sharp angle at the end of a steep section of road. The use of this road by two-way traffic with the development in place would be unsuitable, and GAG acknowledged that the one-way system is important in controlling the flow of



traffic along this road [115]. In considering the scheme as a whole, I do not consider that the inconvenience to a number of local residents would be unacceptable.

### *Conclusions on highway safety and the movement of road users*

203. I conclude that when the swing bridge or the emergency access is operational the appeal proposals would not unacceptably reduce highway safety or interfere with the movement of road users. However, in respect of appeal A, I am concerned at the effect of traffic movement on Micklethwaite Lane and Carr Lane during the intervening period between closure of the road and opening of the emergency access. Given the constrained nature of this route, I conclude that its use by traffic from the greater part of the residential development would have a severe effect on highway safety and the movement of road users. The replacement bridge would accommodate two-way traffic and provide a footway, but these benefits would not offset the harm I have identified.

### **Character and appearance**

#### *The landscape of this part of the Aire valley*

204. Volume 1 of the Council's Landscape Character SPD covers Airedale [40]. This part of the District is described as the most complex character area, and it is itself sub-divided into eight character types with the remaining area identified as settlement. The appeal sites are on the northern side of the valley, where enclosed and upland pasture are the predominant types in the vicinity of Micklethwaite and East Morton. However, the land south of Sty Lane, where the proposed housing would be built, is shown to the south of the enclosed pasture and within the area identified as settlement<sup>56</sup>. The SPD explains that the enclosed pastures are important in providing a green backcloth above Bingley and Crossflatts, and this reference is to the character types as defined in the SPD. The appellants undertook a more detailed assessment of the landscape in this part of the valley, in which the proposed housing site was included in character area 4 – agricultural land and pasture fields.
205. The proposed housing would change the land between the canal and Sty Lane from part of the wider agricultural landscape to urban development. From the nearby lanes and footpaths, the housing would be clearly visible: an element of three storey development is proposed on the east side of the canal and this would be opposite the towpath. Whilst layout, landscaping, scale and appearance are all reserved matters in respect of proposal A [5], the indicative masterplan, the landscape strategy plan, and a series of parameter plans indicate the intended form of the development, and the appellants had no objection to a condition requiring the proposals to come forward in accordance with the parameter plans. It is intended that the development would take the form of a number of distinct character areas, sub-divided by new planting and the retention of existing hedgerows. With the establishment of the new planting and areas of open space, together with the presence of existing trees and hedgerows outside the site, I do not consider that the housing on site A would appear intrusive or unduly prominent from nearby locations. There would be a loss of openness across part of the valley slopes, but the introduction of housing, developed in

<sup>56</sup> Plan of character types in Document CD29.

accordance with the parameter plans, would not be out of keeping with its surroundings.

206. Parts of the appeal site are visible to varying degrees from further away, with one of the prominent views being from Druid's Altar, an elevated vantage point on the opposite side of the valley. From many of these positions, including those in the vicinity of Five Rise Locks and along Keighley Road in Crossflatts, the presence of existing built development would restrict views of the housing on the appeal site and assist in assimilating it into its surroundings. Even from Druids Altar I do not consider that the proposal would be damaging to the landscape. From here can be seen not only the open land on the north-east side of the valley, but also the built development to the west of Lady Lane in Bingley, which contains site A to the east<sup>57</sup>. The development would represent a natural extension of the built-up area which lies to the west, south and east, and the overall pattern of settlement and open landscape would not be materially altered. It would not cause an unacceptable visual intrusion, and in this respect it would not conflict with the objectives of Policy NE3A of the UDP. Significantly it would lie outside any of the character types identified in the Council's SPD, and, as part of the LDF, this carries greater weight than the assessment carried out by the appellants.

#### *Leeds and Liverpool Canal Conservation Area*

207. The conservation area extends along the whole of the canal within Bradford District. In places it includes some adjoining land: in the vicinity of the appeal sites it extends to the north-east to include the group of buildings on Micklethwaite Lane to the north of the swing bridge and that part of the sites between Laythorpe Farmhouse and the canal, and on the opposite side of the canal the boundary encompasses existing development at Limefield Mills. The Framework defines the setting of a heritage asset as the surroundings in which that asset is experienced: consequently the setting of the conservation area encompasses an extensive area along the length of the canal, and I consider that it includes the whole of the appeal sites.
208. The replacement of the swing bridge and the construction of a new length of road from there into the site would take place within the conservation area. The bridge marks a historic crossing point of the canal, but the present structure is of contemporary design, and was installed in 1985. It is of no especial merit, and I note that the Conservation Area Assessment (CAA) does not identify it as one of the features on this stretch of the canal. Its removal would not conflict with Policy BH9 of the UDP. The replacement bridge would be wider, since it would accommodate two-way traffic and a footway [23]. However, the overall form of the structure, comprising a single platform rotating from the north-east bank and contained by railings, would not be dissimilar<sup>58</sup>. Although the alignment would take the bridge across at an angle, I do not consider that in views along the canal from either direction, either this or its greater width would be particularly apparent. It would retain a close link with Bridge Cottage and Airedale Mills, which are identified in the CAA, and the replacement bridge would not be damaging to the setting of this group of buildings. Further to the north, at the

<sup>57</sup> See photo 1 in Appendix 2 of Document O13.

<sup>58</sup> Photograph 2 in Appendix 2 of Document O13 shows the existing bridge from the north-west. The photomontage on page 6 of Document RB28 shows an impression of the proposed bridge from the same direction.

junction of Micklethwaite Lane with Sty Lane, is Airedale House, another key unlisted building in the conservation area. The relationship between Airedale House and the building at Airedale Mills would be unaffected by the development, and it would continue to have an open landscape setting to the north. Although new housing would be apparent in the foreground, this would not diminish the role of Airedale House in closing the view down Sty Lane.

209. Adjacent to the towpath within the conservation area, and close to the existing bridge are four stone chambers. Whilst their original purpose appears uncertain, the representations indicate that they are associated with industrial activity along the canal, and they have some value for this reason. The north-western chamber is partially blocked, and the construction of the approach to the replacement bridge would lead to the loss of this chamber. There is nothing before me to indicate that they are of any particular significance, and the chamber which would be directly affected is already compromised. I consider that proposals A and B would have no more than a minor adverse effect on these structures.
210. Laythorpe Farmhouse is a grade II listed building. The house and attached barn have been altered over time, but as a listed building it is an asset of high sensitivity. It would not be directly affected by the proposed developments, and it is intended that the land within the conservation area, between it and the canal, would largely remain open (Plan D1). However, the access road from the bridge would cross this land, and traffic movement and other activity would impinge on the rural setting of the farmhouse. Moreover the illustrative site plan indicates that the open land to the north and east would be lost, compounding this effect. Having regard to the sensitivity of the building, I agree with the appellants' heritage witness that proposal A would have a major adverse effect on the setting of Laythorpe Farmhouse [66]. Insofar as appeal B is concerned, that proposal does not include the full extent of the realigned road, nor the other development on site A, and I consider that it would have a moderate adverse effect on the setting of the listed building.
211. Certain earthworks, including terraces, banks and platforms, have been identified in the vicinity of Laythorpe Farmhouse. The West Yorkshire Archaeology Advisory service (WYAAS) surmises that these may relate to a medieval settlement, although there is little detailed information. Development of the site would be likely to have a direct impact upon part of the earthworks, although there would be the opportunity for archaeological recording, which could be the subject of a condition. Elsewhere the open space would safeguard their presence. The significance of the earthworks is uncertain, and in these circumstances I consider that there would be at worst a moderate adverse effect on these non-designated heritage assets from proposals A and B.
212. The proposed footbridge would have a direct effect upon the conservation area. It is clear that the drawing submitted with the outline planning application is only intended to set out requirements for a bridge and is not an intended design approach (Plan D17). Another drawing<sup>59</sup>, which shows a bridge supported on two columns with three bar balustrades, is described by the appellants' architect as an outline proposal [68]. It is intended, though, that the bridge

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<sup>59</sup> Appendix 14 in Document RB5/2.

would be the responsibility of the Council, but, in any event, no detailed design proposals have yet been prepared by any party. Whilst the outline proposal indicates a possible approach for a footbridge, it is not clear whether it accurately shows the position of the change in ground level on the western side of the canal, and, therefore, the height of the steps beyond the towpath. Views along the canal are an important feature of the conservation area, and with the development of site A they would be available not only from the towpath, but also from the eastern side. A footbridge in the vicinity of Canal Road would inevitably be prominent in these views, but the likely form of such a bridge is not yet certain. Given, in particular, the slope down from the towpath<sup>60</sup>, the appellants' evidence does not demonstrate that a footbridge in this location would be readily assimilated into this part of the conservation area, and that it would not appear as an intrusive feature in views along the canal.

213. The Leeds and Liverpool Canal passes through urban and rural areas within Bradford District. On this stretch the built-up area of Crossflatts lies to the west and the open land beyond the edge of Bingley to the east. Clearly the construction of 420-440 dwellings on the rising land adjacent to the canal would have an effect on the setting of the conservation area [105]. The extension of the built-up area alongside the canal would represent a localised effect. Within a short distance the canal would continue to pass through open landscapes and built-up areas, and this is evident from the vantage point of Druid's Altar on the south-west side of the Aire valley. There would be a loss of openness on the lower slopes of the valley, and consequent pleasant views across the appeal site, but open aspects forming part of the setting of the conservation area are to be found close by to the north. Moreover the open physical form of the valley would remain a strong presence beyond site A. I consider that proposal A would have a moderately adverse effect on the setting of the conservation area.

214. I have found that proposal A would cause major harm to the setting of Laythorpe Farmhouse, and that proposal B would result in moderate harm to the setting of this listed building. Both proposals would have a moderate adverse effect on the nearby earthworks, and cause minor harm to the group of stone chambers. In addition, in respect of proposal A, the setting of the conservation area would be harmed to a moderate degree, and the evidence does not demonstrate that there would be no adverse effect from construction of the proposed footbridge. For these reasons proposals A and B would conflict to an extent with Policies BH4A and BH7 of the UDP.

#### *Micklethwaite Conservation Area*

215. The conservation area includes most of the village of Micklethwaite, which straddles Micklethwaite Lane as it climbs the hillside to the north of the appeal sites. It is surrounded by fields, and this open green setting is identified in the Council's appraisal of the conservation area as contributing to its essential character [19]. The conservation area does not extend as far south as Sty Lane, which would mark the northern limit of the new housing development, and I note that the plan in the conservation area appraisal showing key views does not identify any from Micklethwaite in the direction of the appeal sites. Nevertheless, the extent of the proposed residential development would impinge on the depth

<sup>60</sup> See, for example, photo 12.8.26 in Appendix 2 of Document RB6/2.

of the agricultural landscape to the south of the village, and in this respect I consider that proposal A would have a limited adverse effect on the setting of the conservation area.

*Other designated heritage assets*

216. There are four grade II listed buildings on Greenhill Lane and Walsh Lane to the north-east of the appeal sites [17]. The nearest, Greenhill Gate and Greenhill Hall and Cottage, are separated from site A by a block of woodland, which provides screening and foreshortens the setting of the listed buildings in this direction. I do not consider that the development of site A for housing would have any material effect on these listed buildings.
217. To the south of the appeal sites, along the canal, are Five Rise Locks [18]. As a grade I listed structure, the locks are of particular importance. There is a stretch of existing housing on the north-east bank of the canal between the locks and the southern tip of site A, and on the south-west side the built-up area of Crossflatts is reached before this point. There is, moreover, tree and hedgerow cover along the eastern side of the canal, and only filtered views of the housing would be available from the towpath between the locks and the site. There are views towards the locks from the south, in which they are apparent rising up the hillside. They are also seen together with nearby buildings, and with woodland beyond. From this direction, and given the presence of intervening development, I do not consider that the proposed dwellings would materially alter the views and setting of Five Rise Locks.

*Other non-designated heritage assets*

218. There are stone walls on the frontages to Sty Lane and Micklethwaite Lane. Within site A, the patchwork of fields is divided by lengths of hedgerow and degraded stone walls [20]. The wall on the south side of Sty Lane would be largely retained, and it is also intended that about 75% of the hedgerows would be incorporated within the development. The hedgerows are typical of the rural landscape of the area, and whilst they contribute to the pleasant appearance of site A they are not of especial individual value. I do not find that the effect of the proposal upon boundary walls and hedgerows would be significant. However, the retention of certain lengths of hedgerow would assist in shaping the layout of the development and assimilating the new housing into its surroundings.
219. On the eastern side of site A, close to the woodland beyond the boundary, is a carved rock with cup and ring markings [20]. Following an assessment by English Heritage, it was decided last year that the rock should not be scheduled as an ancient monument<sup>61</sup>. English Heritage explained that such rock carvings are found in many upland areas, and are especially common in West Yorkshire, amongst other places. The level of survival of this rock was considered to be modest and it was referred to as an isolated example. At present there is no public access to the rock, which simply lies in a corner of a field. It is intended that an area of open space would be formed in this part of the site, which would have the potential to enhance the setting of the rock, and to provide opportunities for public appreciation of the asset. Overall, therefore, I consider that the proposal would have a beneficial effect in respect of this heritage asset.

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<sup>61</sup> Document G12.

220. Wood Bottom House and Barn are identified as a non-designated heritage asset by the appellants. The buildings, which are thought to date from the early nineteenth century, are in a prominent position close to the north-east boundary of site A. Part of their setting is the agricultural landscape of the appeal site, and this would be lost. However there is nothing before me to indicate that these buildings are of any particular significance or intrinsic merit, and I do not consider that the proximity of the proposed residential development would have a material adverse effect.

*Conclusions on character and appearance*

221. Notwithstanding the size of the proposed housing development, I do not consider that it would materially alter the overall relationship of the rural landscape and the built-up areas in this part of the Aire valley. The proposal would not be unacceptably intrusive in the landscape, and in this regard I find no conflict with the objectives of Policy NE3A of the UDP. It would, however, impinge on the setting of the Leeds and Liverpool Canal Conservation Area and to a lesser extent that of Micklethwaite Conservation Area. As a result, it would fail to preserve the character of both conservation areas. In addition the proposal would have a minor adverse effect on the stone chambers near the swing bridge, a moderate adverse effect on the earthworks in the vicinity of Laythorpe Farmhouse, and a major adverse effect on the setting of the listed farmhouse itself. Moreover the information submitted does not demonstrate that the proposed footbridge would not have a harmful effect on the Canal Conservation Area. On the other hand, the development offers the opportunity to improve the setting of the carved rock. Proposal B, for the replacement of the swing bridge, would similarly affect the stone chambers and earthworks, but would only cause moderate harm to the setting of Laythorpe Farmhouse. Overall, I conclude that proposals A and B would detract to an extent from the character and appearance of the area, and that they would conflict with Policies BH7 and BH4A of the UDP which seek to safeguard conservation areas and the setting of listed buildings.

***Recreational value of the canal***

222. There is considerable recreational use of the canal itself by leisure boaters and of the towpath by walkers, runners, and cyclists [18]. The open fields of site A form a pleasant aspect from the stretch of the canal south of Micklethwaite Bridge, and, as part of the wider open landscape, I do not doubt that they contribute to the recreational amenity value. A survey undertaken by GAG in March 2010 found a large majority of respondents expressing the view that the proposed housing development would spoil their enjoyment of the area and a significant proportion suggested that they would visit less often [120]. However the survey results need to be treated with a degree of caution since the questionnaire shows that interviewers introduced themselves as part of a group opposing the development [71], and GAG drew on no other evidence in this respect.

223. Whilst there would be a change on the east bank, to the south of Micklethwaite Bridge, those making use of the canal and towpath would still be able to experience the open setting of the canal further north. Although the design of dwellings is not part of the outline proposal, the design and access statement and parameter plans indicate that a residential scheme could be brought forward which would respect the canalside location. A well-designed extension of the

built-up area along a relatively short stretch of the canal should not diminish its amenity value. Moreover, given the significance and proximity of Five Rise Locks [18], I do not consider that the development would be likely to deter visitors from this part of the Leeds and Liverpool Canal. I conclude that proposal A would not adversely affect the recreational value of the canal, and in this respect it would not conflict with Policy BH20 of the UDP.

### ***Proposal A and policies in the Development Plan***

224. The inclusion of the housing site at Sty Lane in the UDP was covered by Policies H2 and H4 [26, 33]. Policy H2 was concerned with phase 2 housing sites, and in both the Policy Framework and the separate report covering the Shipley constituency, reference is made to the allocation of sites for housing in accordance with that policy. Policy H4 safeguards sites allocated on the Proposals Map. Having regard to the references in both the Policy Framework and the constituency report, it is clear that Policy H2 both allocated sites and placed them in phase 2. There cannot be a second policy which also allocates housing sites, and I am satisfied that the sole purpose of Policy H4 was to safeguard allocated land. I accept that, with the lapsing of Policies H1 and H2, Policy H4 cannot operate as intended [51]. But that it is not an argument for retrieving the allocated housing sites. Rather it is a consequence of the acknowledged mistake made by the Council [82] in not applying for these policies to be saved. It seems to me that, as argued by the Council and GAG [81, 122], the allocation of site A as a housing site in the UDP has lapsed, although I am not seeking to offer a legal view on this matter.
225. The Council and the appellants argue that the extensive and robust process which led to site A's previous allocation for housing site should carry significant weight in support of the principle of development [43]. This position is strongly contested by GAG, which argues that weight from that process fell with the lapsing of Policy H2 [123]. It seems to me that the finding in favour of allocating the site for housing in 2004, following the UDP inquiry, should not be disregarded. However the weight of that finding diminishes over time, and it is present considerations in respect of the sustainability of the site and other aspects of its suitability for development which are of greater relevance.
226. Policies in the RS and the UDP promote sustainable patterns of development. Site A is greenfield land, and the proposal would represent an extension to the built-up areas of Bingley and Crossflatts. The sequential approach of Policy YH7 in the RS gives greater priority to previously-developed land and suitable infill opportunities within towns and cities. However, it includes extensions as an option for the location of new development, and the proposal would align with Policy UDP1 of the UDP which seeks to focus development on the urban areas. Moreover the proposal would achieve a reasonable level of accessibility by alternative modes of transport to the private car (above, paras 159-164). It would represent a sustainable form of development, consistent with Policy YH1 of the RS and Policy UDP1.
227. The provision of 420-440 dwellings would contribute towards the annual figure of housing provision specified for Bradford in Policy H1 of the RS, and, in accordance with Policy H4, the proposal would provide affordable housing to meet the needs of local communities [29]. In most circumstances I consider that the proposal would perform satisfactorily in respect of highway safety and traffic

movement. However, I consider that there would be an unacceptable effect on Micklethwaite Lane and Carr Lane in the period between closure of the swing bridge to road traffic and the opening of the emergency access (above, para 186). In this respect the proposal would conflict with Policies TM2 and TM19A of the UDP.

228. The proposal would not conflict with Policy NE3A (above, para 206), which seeks to safeguard the appearance of the landscape, but it would have an adverse effect on certain heritage assets, thereby conflicting with Policies BH4A, and BH7 of the UDP (above, para 221). I refer to policies concerning Green Belt and nature conservation below, but there is nothing to indicate that the proposal would conflict with the Development Plan in respect of these matters.

229. I conclude that, notwithstanding the demise of the residential allocation at Sty Lane, proposal A would be consistent with policies in the Development Plan which promote sustainable development. It would not, however, be fully consistent with the Development Plan, due to certain conflict with policies concerning highway safety and the movement of road users and heritage assets.

### ***Other considerations***

#### *i) The Green Belt*

230. The boundary of the Green Belt runs along the southern side of Sty Lane. Close to the junction with Micklethwaite Lane, site A extends across Sty Lane and includes a corner of the field on the opposite side of the road. This part of the appeal site, including the western end of Sty Lane is within the Green Belt [16]. The only work proposed on this part of the site is the slight realignment of the western end of Sty Lane to provide a link between the new length of road from the swing bridge within the site and Micklethwaite Lane to the north of the junction<sup>62</sup>.

231. Other than in very special circumstances, Policy GB1 of the UDP limits development in the Green Belt to that for the purposes of agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries, or other uses of land which preserve the openness of the Green Belt, and which would not conflict with the purposes of including land therein. The Framework includes similar provisions and specifies that engineering operations are not inappropriate in these circumstances. The realignment of this short length of road is an engineering operation which would have no additional impact on openness, and would not conflict with any of the five purposes for including land in the Green Belt, set out in paragraph 80 of the Framework. Accordingly, I find that this part of proposal A would not constitute inappropriate development in the Green Belt.

232. The appellants argued that dismissal of the appeal, however, would be likely to have a harmful effect on the Green Belt because of the need for housing land [72]. I note that a number of potential SHLAA sites in the Bingley area are in the Green Belt, but a range of considerations would need to be taken into account in determining which were brought forward to meet ongoing needs for the release of housing land. Whilst it must be more likely that preventing housing development on site A would increase the need to release land elsewhere, it does

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<sup>62</sup> Plan D11.



not necessarily mean that this would occur in the Green Belt. I give only limited weight to this consideration.

### *Housing land supply*

233. Bradford's approach to housing land supply is set out in the emerging Core Strategy [38]. Based on the RS figures, and with a 10% reduction for the period 2008-2016 to take account of weak economic and housing market conditions, this gives a residual requirement of 48,481 dwellings for the LDF period to 2028 [45]. The appellants have calculated a five year requirement of 14,555 dwellings<sup>63</sup>. I note that the Council does not accept arguments concerning the factoring-in of demolitions and catching-up from earlier shortfalls, but there is agreement that, having regard to constraints, the level of deliverable supply is likely to be around only 2.5 years [45]. GAG did not dispute the evidence on housing land. The Framework reiterates that local planning authorities should identify a supply of deliverable sites to provide five years worth of housing, and additionally requires that, where there has been a record of persistent under-delivery an additional buffer of 20% should be provided to provide a realistic prospect of achieving the planned supply. The Council has acknowledged that Bradford is in this position, with a backlog of about 5,000 dwellings since 2008-09. It is clear that there is a significant shortfall of available housing land in Bradford, and appeal proposal A would make an important contribution to addressing this situation.

### *Nature conservation*

234. Concern has been expressed by BUWG and a number of local residents about the effect of the proposals on flora and fauna [133, 142]. Most of the lengths of hedgerow within the site would be retained (above, para 210), and their continued presence would provide routes for wildlife to use. In response to my questions, BUWG explained that plant species found on site A were also found on other open land in the vicinity. The canal would continue to act as a corridor for the movement of wildlife, including bats, in accordance with Policy NE13 of the UDP. Specific mention was made of the white-letter hairstreak butterfly and white-clawed crayfish. I note that the white-letter hairstreak is a priority species in the UK's Biodiversity Action Plan. Records of sightings of the butterfly relate to July/ August 2010, and the locations given are either in the valley bottom or on the other side of the Aire valley. Surveys for white-clawed crayfish were undertaken as part of the work for the environmental assessment, and I have no substantive evidence to indicate that the finding that this species was not present in this stretch of the canal is incorrect. I am satisfied, on the information before me, that, subject to an ecology strategy for the site which could be secured by means of a condition, the proposals would not damage the integrity of the Leeds and Liverpool Canal as a site of ecological/ geological importance and would not, therefore, conflict with Policy NE9 of the UDP.

### *The TPO*

235. The landscape strategy plan shows the retention of existing tree cover in the position of the protected group of trees at the southern tip of site A. The nearest dwellings are indicated to the north, set back generally in line with Nos 35 and 37

<sup>63</sup> Appendix 5 in Document RB7/2.

Fairfax Road. The appellants have no objection to a condition requiring the scheme to progress in the context of the landscape strategy, and with this safeguard I do not consider that the proposed housing development would pose a threat to the protected trees.

*Availability of access from Oakwood Drive*

236. There is a dispute concerning the availability of land at the end of Oakwood Drive, which would be needed to enable the continuation of the road into site A. A strip of land lies between the end of the road and the nearby field at the eastern side of site A, which is at a lower level than Oakwood Drive. The strip of land is included within the boundary of the appeal site<sup>64</sup>, but is not within the ownership of the appellants. Registration documents show the northern part of this strip subject to the possessory title of the occupier of the adjacent property at No 66 Oakwood Drive. On the other side of the cul-de-sac, the plan attached to the title document for No 55 includes the width of the footway along the frontage of the property and extending to the adjacent field boundary. The occupiers of both Nos 66 and 55 Oakwood Drive appeared at the inquiry, and it is their evidence that they had no intention of selling land required to enable the connection to the proposed housing development to be built [143]. A negatively-worded condition may be used to prohibit development until a specified action which requires the involvement of a third party, such as the construction of an access on land outside a developer's control, has been undertaken. However Circular 11/95 makes it clear that where there are no prospects at all of the action being performed within the time-limit which would be imposed by the planning permission, negative conditions should not be imposed.
237. Other documentation has been submitted by the appellants and the Council on this matter<sup>65</sup>. The plan accompanying the final certificate of adoption shows that Oakwood Drive was adopted as highway up to the field boundary [53]. GAG, which supports the argument of the two property owners, did not dispute that land which is adopted highway cannot normally be acquired by adverse possession, and I note that the registration specifically excludes land consisting of public highway maintainable at the public expense. On the other side of the road, the footway past No 55 was not included in the adoption agreement, but it was the agreed position of the Council and the appellants that this land had become public highway through usage.
238. GAG argued that, due to ownership constraints, only 6.2m width of land was available to provide access at the end of Oakwood Drive, whereas at least 7.3m would be required [122]. Even if the frontage of No 55 is discounted, on the information before me it seems that the possessory title adjoining No 66 would not be an impediment to the continued construction of Oakwood Drive in line with the existing carriageway and footway on the eastern side of the road. In these circumstances, I consider that a negatively-worded condition could appropriately be imposed to secure access into site A from this point.

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<sup>64</sup> Plan A2.

<sup>65</sup> Documents G11 and RB38/1-2.

### *Economic implications*

239. The Ministerial statement *Planning for Growth* makes it clear that the economic benefits of proposals should be taken into account, and encourages support for sustainable forms of development, including housing. The importance of sustainable economic growth is reiterated in the Framework: one of the core principles of the Framework is that planning should proactively drive and support economic development to deliver, amongst other results, the homes which the country needs. The proposed housing at Sty Lane would represent a sustainable form of development. Its economic benefits, including job creation, the new homes bonus, and expenditure in the local economy, carry significant weight [76].

### ***The Planning Obligation***

240. Policy H9 seeks the provision of affordable housing in proposals for residential development on sites of 1ha or more and yielding at least 25 dwellings [33]. The justification to the policy refers to the Joint Housing Strategy, which sets out varying quotas of affordable housing for different market areas. For Airedale, a quota of 30% is sought, and the obligation makes provision for this level of affordable housing [13].

241. Part II of the first schedule concerns the travel plan and various transport contributions. The travel plan has an important role in promoting the use of sustainable modes of travel, and it includes the funding of Metrocards to encourage the use of public transport. Other contributions would provide for highway works, including the surfacing of the replacement swing bridge, and the footbridge, all of which are integral to the appeal proposals. I have already expressed my reservations about the content of the obligation concerning the footbridge (above, paras 160-161): there is insufficient information before me to ensure that the contribution for this structure would be fairly and reasonably related to the development. Moreover, having regard to the totality of the Council's covenants, I do not consider that the terms of the obligation could be relied upon to ensure the construction of the bridge. As I have reached the view that the bridge could be the subject of a negatively-worded condition, the payment of a contribution towards its provision would not meet the test of necessity.

242. A primary education contribution of £1,631 per dwelling and a secondary education contribution of £1,523 per dwelling would be paid, in line with the Council's requirements<sup>66</sup>. The need for such provision is supported by representations from Crossflatts Village Society and a local councillor who specifically referred to local schools being over-subscribed [134, 132]. In addition, the pressure on local infrastructure was a point made in written representations by local residents [147].

243. Policy OS5 of the UDP requires appropriate provision for recreational open space and playing fields [36]. A contribution of £183,000 for improvements to the football pitch and the provision of changing rooms at Crossflatts Recreation Ground is included on the basis that the topography of site A is better suited to

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<sup>66</sup> The contribution requirements are set out at the end of the committee report on the application for proposal A (Document CD5a).

providing informal recreation opportunities. The obligation would also secure the provision of play equipment within this site and a management plan for the communal areas.

244. Given that proposal A would provide for up to 440 dwellings, a phasing plan is necessary to ensure that the development would proceed in accordance with associated infrastructure works, and to assist in its assimilation into the local community and its surroundings. However this is a matter which could appropriately be covered by a condition, and this provision of the planning obligation is not necessary
245. The obligation commits the appellants to the provision of the replacement swing bridge, which would then be handed over to British Waterways. A sum to be agreed with British Waterways would be paid to cover the maintenance of the bridge during its full life span. GAG raised a number of detailed concerns about this aspect of the obligation. The obligation relates to the three appeal proposals: the plans for proposals A and B both include a detailed drawing of the swing bridge showing that it would be of sufficient width to accommodate two-way traffic and a footway<sup>67</sup>, and there is no need for these dimensions to be included in the definition of the bridge. Similarly there is no need to more closely define the bridge in Part VIII of Schedule 1, particularly since clause 1.1 requires that the detailed design and specification has to be agreed by the Council and British Waterways. Should planning permission be granted and a future application seek to alter conditions, a favourable decision would result in a fresh permission. The Council and appellants are alert to the consequential need to amend the planning obligation in this circumstance. Part VIII of Schedule 1 requires that the appellants maintain the swing bridge in good repair until it is dedicated to British Waterways, and there is no need for an amendment to clause 7.10 in this respect. I am satisfied that the obligation refers appropriately to the swing bridge, which is part of the principal access to the proposed housing site.
246. I consider that all of the provisions of the planning obligation are directly related to the development of the land at Sty Lane for housing, but that the footbridge contribution and the inclusion of a phasing requirement are not necessary to make it acceptable in planning terms: moreover it is uncertain whether the footbridge contribution would be fairly and reasonably related to the scheme in scale and kind. Regulation 122 of the Community Infrastructure Levy Regulations provides that it would be unlawful for an obligation to be taken into account in a planning decision if it does not meet all of the statutory tests. Accordingly, I have not given weight to the phasing requirement and the footbridge contribution in the obligation in reaching my recommendations. I consider that the other provisions carry substantial weight.

### ***Overall conclusions***

247. Site A is no longer allocated for housing in the UDP. Nevertheless the position of this land on the edge of the built-up area accords with the locational strategy of both the UDP and the RS, and in principle it remains an appropriate location for new residential development. There is a reasonable level of accessibility by non-car modes of transport, and having regard to these aspects of the proposal,

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<sup>67</sup> Plan B7.

the construction of housing on the land would represent a sustainable form of development.

248. The principal vehicular access to the development would be across a swing bridge. In most circumstances this arrangement, involving the provision of a wider two-way bridge, would not unacceptably reduce highway safety or interfere with the movement of road users. However on those occasions when the bridge is closed to road traffic for a prolonged period, there would be a delay before the alternative access via Oakwood Drive would be available for use. During this time, the only route out of the greater part of the development would be to the north through Micklethwaite. Such occasions are likely to occur infrequently, but there are significant constraints on traffic movement on this route, both through the village and at the junction with Otley Road to the north. Given the deficiencies along this road, I consider that the increased usage resulting from the appeal proposal would cause severe harm in respect of both highway safety and traffic movement. The benefits to pedestrian safety and traffic movement arising from the provision of a wider bridge with a footway would not offset this harm.
249. I do not consider that the development would cause material harm to the recreational value of the Leeds and Liverpool Canal or to the landscape of this part of Airedale. It would improve the setting of the carved rock on the appeal site, but it would have adverse effects on certain heritage assets. In this regard, it would impinge on the setting of the Leeds and Liverpool Canal and Micklethwaite Conservation Areas, and additionally it would have a minor effect on the stone chambers near the swing bridge, a moderate effect on the earthworks on the site, and a major effect on the setting of Laythorpe Farmhouse, a grade II listed building. Additionally, the evidence does not demonstrate that the proposed footbridge would not have a harmful effect on the character or appearance of the Leeds and Liverpool Canal Conservation Area. Because of its effect in terms of highways and heritage matters, proposal A would not comply fully with policies in the Development Plan.
250. There are several important benefits, as distinct from avoidance of harm, offered by the appeal proposal. I have already referred to the benefits of the wider bridge (above, para 248). Proposal A would make a significant contribution to the supply of housing land, which is of particular relevance given the identification of Bingley as a principal town in the emerging Core Strategy. The provision of affordable housing also carries significant weight in support of the proposal. A scheme of this size would generate considerable economic benefits, and the promotion of growth through appeal proposal A would accord with national planning policy. However, given its adverse effects in respect of highways and heritage matters, the proposal would not accord fully with all the dimensions of sustainable development set out in paragraph 7 of the Framework.
251. The policies in the UDP which allocated land for housing have lapsed. Moreover, paragraph 49 of the Framework explains that policies for the supply of housing should not be considered up-to-date in the absence of a five year supply of deliverable housing sites, which is the situation in Bradford. Consequently the test in paragraph 14 of the Framework applies. The adverse impact on certain heritage assets does not amount to substantial harm. Having regard to the policy in paragraphs 134 and 135 of the Framework, I consider that the benefits attributable to the development would outweigh that harm. However, I do not

consider that these benefits would also justify the severe harm to highway safety and the movement of road users caused in the period between the closure of the swing bridge and the opening of the emergency access. In my judgement, the nature of Micklethwaite Lane and Carr Lane is 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, and taking into account the highway and transport measures put forward as part of the overall scheme. For this reason, and having regard to paragraph 32 of the Framework, I consider that the residual cumulative impact of the development on transport grounds would be severe. The adverse impacts of these additional traffic movements, in addition to the harm to heritage assets, would significantly and demonstrably outweigh the benefits of proposal A, when assessed against the policies in the Framework as a whole. Having regard to all relevant matters, and the range of representations advanced, I conclude that the balance lies against this proposal for the development of housing on site A.

252. Proposal B simply involves the replacement of the swing bridge, which is also included within proposal A. It 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. I consider that these adverse effects would be outweighed by the public benefits of a wider bridge, incorporating a footway. However, the proposed permanent road alignment to the north of the canal is shown leading into site A, and it does not by itself provide a connection to the existing highway network<sup>68</sup>. The appellant's planning witness suggested that the intended temporary connection back to Micklethwaite Lane could be retained, but this was not the basis on which the proposal was considered by the Council or at the inquiry, and it would be inappropriate to include such an amendment at this stage. Implementation of the proposal is dependent on planning permission being granted for the development on site A. Consequently, given my conclusion against proposal A, I conclude that proposal B should also fail.

253. No deemed reason for refusal was pursued by the Council against proposal C. Nevertheless, I agree with the Council and the appellants that conservation area consent for removal of the existing bridge should be dependant on permission being forthcoming for a suitable replacement. In the light of my conclusions on appeals A and B, I conclude that it would be inappropriate for appeal C to succeed.

## Recommendations

254. I recommend that each of the appeals be dismissed, that planning permission be refused in respect of a replacement vehicular and pedestrian swing bridge, and that conservation area consent be refused for the removal of the existing vehicular swing bridge and ancillary works, both at Micklethwaite Lane, Crossflatts/ Micklethwaite, Bingley, West Yorkshire.

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<sup>68</sup> Plan C.

255. Should the Secretary of State reach different conclusions, I recommend that the conditions in Annex 1 to this report be attached to grants of planning permission and conservation area consent.

*Richard Clegg*

INSPECTOR

## **ANNEX 1 – SUGGESTED CONDITIONS**

### **Appeal A**

- 1) 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.
- 2) 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.
- 3) Application for approval of the reserved matters shall be made to the local planning authority not later than five years from the date of this permission.
- 4) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 5) The development hereby permitted shall be carried out in accordance with the approved plans listed in Annex 2.
- 6) The reserved matters shall be prepared in accordance with the illustrative plans listed in Annex 3, the design and access statement, and the landscape strategy ref A-000-00.
- 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, together with a timetable for their implementation, have been submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until the highway schemes 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 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 development shall take place until a scheme for a footbridge in the position shown on parameters plan 012 has been submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until the footbridge has been provided in accordance with the approved scheme.
- 11) 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.
- 12) No phase of the development 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.
- 13) Apart from the dwellings served from Oakwood Drive, 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 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 three 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.

- 14) 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.

- 15) The landscaping and layout reserved matters applications shall be accompanied by an ecological assessment which sets out measures to ensure that the effect on biodiversity is minimised.
- 16) No development shall take place until an ecology and landscape management strategy and timetable has been submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented in accordance with the timetable.
- 17) A checking survey for breeding birds shall be undertaken, and no site clearance shall take place until the survey results have been submitted to and approved in writing by the local planning authority.
- 18) A checking survey for otters shall be undertaken, 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.
- 19) 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.
- 20) No development shall take place until fencing has been erected around the carved rock 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.
- 21) 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.
- 22) No structure or building shall be located over or within 4m of the centre line of the sewers which cross the site.
- 23) 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.

- 24) No development shall commence until any remediation statement and programme required by condition No 23, 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.
- 25) If significant 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.
- 26) A methodology for quality control of any material brought onto the site for use in filling, level raising, 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.
- 27) No development shall take place within 10m of the canal until details of the repaired and reinstated canal wall and 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.
- 28) No development shall take place until details of external lighting within 20m of the canal have been submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained thereafter in accordance with the approved details.
- 29) The dwellings on the site shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 30) 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.
- 31) No development shall take place until a construction environmental management plan has been submitted to and approved in writing by the local planning authority. The management plan shall identify steps and procedures to minimise the creation and impact of noise, vibration, dust and waste disposal, and to manage heavy goods vehicle access. The plan shall be implemented for the duration of the construction period.

- 32) No construction work shall take place outside the following times: 0730 to 1800 hours from Monday to Friday, and 0730 to 1300 on Saturdays. There shall be no construction work at any time on Sundays and bank or public holidays.
- 33) No sheet piling work shall take place outside the following hours: 0900 to 1630 from Monday to Friday, and 0900 to 1300 on Saturdays. There shall be no construction work at any time on Sundays and bank or public holidays.

## **Appeal B**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in Annex 2.
- 3) 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.
- 4) No development shall take place until a scheme and programme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include the size, species and spacing of planting, the areas to be grass covered, and the treatment of hard-surfaced areas. The scheme shall be carried out in accordance with the approved programme; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 5) 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 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 three 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.

- 6) No development shall take place until a scheme of tree 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.
- 7) No development shall take place until details of external lighting within 20m of the canal have been submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained thereafter in accordance with the approved details.
- 8) No development shall take place until a construction environmental management plan has been submitted to and approved in writing by the local planning authority. The management plan shall identify steps and procedures to minimise the creation and impact of noise, vibration, dust and waste disposal, and to manage heavy goods vehicle access. The plan shall be implemented for the duration of the construction period.
- 9) A checking survey for breeding birds shall be undertaken, and no site clearance shall take place until the survey results have been submitted to and approved in writing by the local planning authority.
- 10) A checking survey for otters shall be undertaken, 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.
- 11) 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.
- 12) No development shall take place within 10m of the canal until details of the repaired and reinstated canal wall and 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.
- 13) 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.

- 14) No construction work shall take place outside the following times: 0730 to 1800 hours from Monday to Friday, and 0730 to 1300 on Saturdays. There shall be no construction work at any time on Sundays and bank or public holidays.
- 15) No sheet piling work shall take place outside the following hours: 0900 to 1630 from Monday to Friday, and 0900 to 1300 on Saturdays. There shall be no construction work at any time on Sundays and bank or public holidays.

### **Appeal C**

- 1) The works hereby authorised shall begin not later than three years from the date of this decision.
- 2) The works hereby authorised shall be carried out in accordance with the approved plans listed in Annex 2.
- 3) The works hereby authorised shall not be carried out before a contract has been let for the installation of a replacement swing bridge and planning permission has been granted for the scheme for which the contract provides.
- 4) No works involved in the removal of the existing swing 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.

## **ANNEX 2 – APPROVED PLANS**

### **Appeal A**

A1 Site location plan ref 001

A2 Site plan ref 002A

A3 Indicative signalised junction layout – Keighley Road/ Micklethwaite Lane ref 4634-004A

A5 Indicative locations of variable message signs ref 4634-012

A6 Proposed highway improvements – Sty Lane/ Micklethwaite Lane ref 4634-013B

B4 Proposed road alignment phase 1 – temporary through road ref J4999-101P

C Proposed road alignment phase 2 – post diversion of Micklethwaite Lane ref J4999-102

Proposed traffic calming measures – junction of Oakwood Drive and Lady Lane ref 6431-007

### **Appeal B**

B1 Location plan ref J4999-106

B2 Site plan ref J4999-105P1

B4 Proposed road alignment phase 1 – temporary through road ref J4999-101P

B5 Proposed road alignment - visibility sight lines ref J4999-103

B6 Additional sections ref J4999-104

B7 Proposed swing bridge – general arrangement ref J4999-107

B8 Sections through proposed bridge alignment ref J4999-108

B9 Details of proposed finishes ref J4999-109

B10 General arrangement of swing bridge ref J4999-110

C Proposed road alignment phase 2 – post diversion of Micklethwaite Lane ref J4999-102

### **Appeal C**

B1 Location plan ref J4999-106

B2 Site plan ref J4999-105P1

B3 Existing swing bridge and highway ref J4999-100

### **ANNEX 3 – ILLUSTRATIVE PLANS REFERRED TO IN CONDITION 6, APPEAL A**

D3 Parameters plan 01A – Disposition of built development

D4 Parameters plan 02A – Scale

D5 Parameters plan 03 – Form and massing

D6 Parameters plan 04 – Density

D7 Parameters plan 05 – Landmarks

D8 Parameters plan 06A – Hedgerows

D9 Parameters plan 07 – Phasing plan

D10 Parameters plan 08A – Access

D13 Parameters plan 11 – Indicative movement framework



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Carter of Counsel	Instructed by Ms S Hemingway, City Solicitor.
He called	
Mr R Gelder BEng(Hons)	Transportation Development Manager, City of Bradford MDC.
IEng MICE	
Mrs F J Tiplady	Development Project Leader, City of Bradford MDC.
BA(Hons) DipTP MRTPI	

### FOR THE APPELLANTS:

Mr A Williamson BA(Hons)	Instructed by Mr R Moore, Walker Morris Solicitors.
DipTP MRTPI	
He called	
Dr K Fox BSc(Hons) PhD	Managing Director, Fox Traffic Simulation.
Mr J Clark BSc(Hons)	Managing Director, Mason Clark Associates.
CEng MICE	
Mr D J Williams	Director, DJW Consulting Ltd.
Miss A J France IEng	Managing Director, Sanderson Associates (Consulting Engineers) Ltd.
FIHE AMICE MCIHT	
Mr A N Brown BA BArch	Principal, Woodhall Planning & Conservation.
MSc MRTPI RIBA IHBC	
Mr R Holmes-Smith	Director, P+HS Architects Ltd.
BA(Arch) DipArch RIBA	
Mr T Robinson BPhil	Director, Robinson Landscape Design.
CMLI	
Mr C A Brook FRTPI	Principal Planning Consultant, Dacres Commercial.
Mr S Sadler BA(Hons)TP	Head of Planning Unit, Walker Morris Solicitors.
MRTPI	
Mr N Robinson <sup>69</sup>	Legal Director/ Solicitor, Redrow Homes Ltd.

### FOR GREENHILL ACTION GROUP LTD:

Mr J Smyth of Counsel	Instructed by Mr Wilbraham.
He called	
Mr T Brown	Chairman, Greenhill Action Group Ltd.
Mr G W Bowman	Regional Director, WYG.
BEng(Hons) CEng MICE	
MCIHT	
Mr R Raper BA DipTRP	Richard Raper Planning Ltd.
MRTPI MRAI	
Mr P Wilbraham <sup>70</sup>	Solicitor, Cobbetts LLP.

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<sup>69</sup> Mr Robinson did not give evidence in support of the appellants' case, but contributed to the session on the planning obligation.

<sup>70</sup> Mr Wilbraham did not give evidence in support of GAG's case, but contributed to the sessions on the planning obligation and conditions.

## INTERESTED PERSONS:

Councillor M Ellis	Member of the Council for Bingley Rural Ward.
Councillor D Heseltine	Member of the Council for Bingley Ward.
Councillor J Pennington	Member of the Council for Bingley Ward.
Mr J Tempest	Bingley Civic Trust.
Mrs S Stead	Secretary, Bradford Urban Wildlife Group.
Mrs J E Payn	Crossflatts Village Society.
Mr M Clarke	President, Leeds & Liverpool Canal Society.
Mr Butler	Micklethwaite Village Society.
Mrs M Fleming	Pennine Walking Group.
Mrs S Bryden	Local resident.
Mr M Burke	Local resident.
Mr J Cahill	Local resident.
Mrs E Deakin	Local resident.
Mr R de Jong	Local resident.
Mr J Findlay	Local resident.
Mr R Harding	Local resident.
Mr R Kunz	Local resident.
Dr C Morley	Local resident.
Mr D North	Local resident.
Mr C O'Neill	Local resident.
Mr R Pinchbeck	Local resident.
Mr R J Shimmin	Local resident.

## CORE DOCUMENTS

CD1	Statements of case.
CD2	Report of the Strategic Director (Regeneration) to the meeting of the Executive on 22 April 2008 and appendix 1 (saved policies submission).
CD3	Minutes of the meeting of the Executive on 22 April 2008.
CD4	Application to the Secretary of State for a direction under paragraph 1(3) of Schedule 8 to the Planning & Compulsory Purchase Act 2004.
CD5	Saving direction and accompanying schedule from the Government Office.
CD5a	Report of the Strategic Director of Regeneration and Culture to the Area Planning Panel (Shipley) on 23 September 2011 (concerning proposal A).
CD5b	Minutes of the Area Planning Panel (Shipley) meeting of 23 September 2011.
CD6	Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Executive on 21 November 2011 (concerning the status of housing sites in the UDP).
CD7	Minutes of resolutions of the Executive on 21 November 2011.
CD7a	Report of the Assistant Director (Planning, Transportation & Highways) to the meeting of the Regulatory and Appeals Committee on 1 December 2011 (concerning proposal A).
CD7b	Minutes of the meeting of the Regulatory and Appeals Committee on 1 December 2011.
CD7c	Report of the Strategic Director of Regeneration and Culture to the meeting of the Area Planning Panel (Shipley) on 18 January 2012 (concerning proposals B and C).
CD8	The Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 (2008).

- CD9 Replacement UDP for the Bradford District – Inspector’s Report – Shipley Constituency Volume (2004).
- CD10a Replacement UDP for the Bradford District (2005) – Policy Framework.
- CD10b Replacement UDP – Proposals for the Shipley Constituency.
- CD10c Replacement UDP – Proposals Map – Shipley Parliamentary Constituency.
- CD11 LDF for Bradford – Core Strategy – Further Issues and Options for Consultation (2008).
- CD12 LDF for Bradford – Core Strategy DPD – Further Engagement Draft (2011).
- CD13 TA 22/81 – Vehicle Speed Measurement on All Purpose Roads.
- CD14 West Yorkshire MCC – Highway Design Guide (1985).
- CD15 TD 42/95 – Geometric Design of Major/ Minor Priority Junctions.
- CD16 Guidance on Transport Assessment – Department for Communities & Local Government and Department for Transport (2007).
- CD17 Manual for Streets - Department for Transport, Department for Communities & Local Government and Welsh Assembly Government (2007).
- CD18 Manual for Streets 2 – Wider Application of the Principles – The Chartered Institution of Highways & Transportation (2010).
- CD19 Building for Life – Commission for Architecture & the Built Environment and the Home Builders Federation (2008).
- CD20 Guidelines for Landscape and Visual Impact Assessment – The Landscape Institute, the Institute of Environmental Management and Assessment (2002).
- CD21 Landscape Character Assessment – Guidance for England and Scotland – The Countryside Agency, Scottish Natural Heritage (2002).
- CD22 Code for Sustainable Homes - Department for Communities & Local Government (2006).
- CD23 Landscape Character SPD – City of Bradford MDC (2008).
- CD24 Quality Reviewer – R Cowan, S Adams & D Chapman (2010).
- CD25 Micklethwaite Conservation Area Assessment - City of Bradford MDC (2005).
- CD26 Micklethwaite Conservation Area map.
- CD27 The Leeds and Liverpool Canal Conservation Area Assessment - City of Bradford MDC (2006).
- CD28 Five Year Management Proposals for Leeds and Liverpool Canal Conservation Area - City of Bradford MDC (2006).
- CD29 Landscape Character SPD - Volume 1: Airedale – City of Bradford MDC (2008).
- CD30 Conservation Principles, Policies and Guidance – English Heritage (2008).
- CD31 Micklethwaite Conservation Area Appraisal - City of Bradford MDC (2009).
- CD32 PPS5 – Historic Environment Planning Practice Guide (2010).
- CD33 Understanding Place: Conservation Area Designation, Appraisal and Management – English Heritage (2011).
- CD34 The Setting of Heritage Assets - English Heritage (2011).
- CD35 Airedale Corridors – A Masterplan and Strategy for Airedale – Arup (2005).
- CD36 Strategic Housing Market Assessments – Practice Guidance Version 2 - Department for Communities & Local Government (2007).
- CD37 Bradford 2010 Strategic Housing Market Assessment and Sub-Area Portraits.
- CD38 Strategic Housing Land Availability Assessment for the City of Bradford MDC (Draft) (2011).
- CD39 Ministerial statement – Planning for Growth (2011).

- CD40 Draft National Planning Policy Framework (2011).
- CD41 Advice note on the National Planning Policy Framework Consultation Draft - The Planning Inspectorate (2011).
- CD42 Laying the Foundations: A Housing Strategy for England - Department for Communities & Local Government (2011).

## THE LPA'S DOCUMENTS

- CBMDC1/1 Mr Gelder's proof of evidence.
- CBMDC1/2 Appendices to Document CBMDC1/1.
- CBMDC1/3 Mr Gelder's rebuttal proof of evidence.
- CBMDC1/4 Appendices to Document CBMDC1/3.
- CBMDC1/5 Errata sheet relating to Mr Gelder's original proof of evidence.
- CBMDC2 Mrs Tiplady's proof of evidence.
- CBMDC3 Mr Carter's closing submissions.
- CBMDC4 Letter dated 20 February 2012 from the Council to The Planning Inspectorate concerning the heritage reasons in respect of appeals B and C.
- CBMDC5 Extract from Design Manual for Roads and Bridges – Volume 12, Section 2.
- CBMDC6 The Council's decision sheets concerning the swing bridge access reason in respect of appeals A and B.
- CBMDC7/1-2 Call-out logs for Granby Lane and Morton Lane canal bridges.
- CBMDC8 Representations in respect of the Framework.

## THE APPELLANTS' DOCUMENTS

- RB1/1 Miss France's proof of evidence.
- RB1/2 Appendices to Document RB1/1.
- RB1/4<sup>71</sup> Miss France's rebuttal proof of evidence.
- RB1/5 Appendices to Document RB1/4.
- RB1/6-7 Miss France's note and appendices concerning the Oakwood Drive/Lady Lane junction.
- RB2/1 Mr Clark's proof of evidence.
- RB2/2 Appendices to Document RB2/1.
- RB3/1 Mr Williams's proof of evidence.
- RB3/2 Appendices to Document RB3/1.
- RB3/3-4 Diagrams showing stages in swing bridge operation.
- RB4/1 Mr Brown's proof of evidence.
- RB4/2 Appendices to Document RB4/1.
- RB5/1 Mr Holmes-Smith's proof of evidence.
- RB5/2 Appendices to Document RB5/1.
- RB6/1 Mr Robinson's proof of evidence.
- RB6/2 Appendices to Document RB6/1.
- RB7/1 Mr Brook's proof of evidence.
- RB7/2 Appendices to Document RB7/1.
- RB8/1 Mr Sadler's proof of evidence.
- RB8/2 Appendices to Document RB8/1.

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<sup>71</sup> The summary of Miss France's proof was submitted with the reference RB1/3. Summaries of proofs are not listed as inquiry documents.

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RB9/1	Dr Fox's rebuttal proof of evidence.
RB9/2	Dr Fox's further comments on the Sty Lane Aimsun model.
RB10	Mr Williamson's closing submissions.
RB11/1	Planning policy statement for application A.
RB11/2	Appendices to Document 11/1.
RB12/1	Design and access statement for application A and Appendices A-D.
RB12/2	Appendix E to Document RB12/1.
RB13	Statement of community involvement for application A.
RB14/1	PPS5 assessment of heritage assets for application A.
RB14/2	Addendum to Document RB14/1.
RB15/1	Environmental statement for application A and archaeological addendum.
RB15/2	Appendices to Document RB15/1.
RB15/3	Non-technical summary of Document RB14/1.
RB16	PPS25 flood risk assessment for application A.
RB17	Drainage strategy for application A.
RB18	Canal bridge options report for application A.
RB19/1	Ecological assessment – July 2011.
RB19/2	Habitat loss-gain matrix for application A.
RB20	Waste minimisation and management strategy for application A.
RB21	Breeding bird survey and habitat suitability assessment report for application A.
RB22/1	Comprehensive transport assessment for application A.
RB22/2	Stage 1 road safety audit for application A.
RB22/3	Framework travel plan for application A.
RB23	Energy statement for application A.
RB24/1	Geo-environmental desk study for application A.
RB24/2	Geo-environmental site investigation for application A.
RB25	Tree inspection for bats report for application A.
RB26	Arboricultural survey.
RB27	Planning policy statement for applications B and C.
RB28	Design and access statement for applications B and C.
RB29	Geotechnical report for applications B and C.
RB30	PPS5 assessment of heritage assets for applications B and C.
RB31	White-clawed crayfish survey for applications B and C.
RB32	Table of Mickleton Bridge openings and covering correspondence dated 20 February 2012 from Sanderson Associates.
RB33	Emails dated December 2010 between Sanderson Associates and the Council concerning traffic management measures at Lady Lane/Oakwood Drive.
RB34	Mr Bowman's proof of evidence on behalf of GAG for the UDP inquiry concerning land at Sty Lane.
RB35	Extracts from Traffic Calming Techniques – The Institution of Highways & Transportation, County Surveyors Society.
RB36	Schedule of sites selected for traffic generation comparison.
RB37	Ecological commentary.
RB38/1	Letter dated 29 February 2012 from Mr Robinson to Mr Grime of Redrow Homes concerning the ownership and adoption of land at Oakwood Drive.
RB38/2	Appendices to Document RB38/1.
RB39	Lists of plans for the appeal proposals.
RB40	Representations in respect of the Framework.

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## **GAG'S DOCUMENTS**

- GAG1 Mr Brown's proof of evidence.
- GAG2/1 Mr Bowman's proof of evidence.
- GAG2/2 Appendices to Document GAG2/1.
- GAG2/3 Mr Bowman's rebuttal note and appendices.
- GAG2/4 Plans comparing walking distances from site A.
- GAG3/1 Mr Raper's proof of evidence on heritage and conservation matters.
- GAG3/2 Appendices to Document GAG3/2.
- GAG4/1 Mr Raper's proof of evidence on general planning matters.
- GAG4/2 Appendices to Document GAG4/1.
- GAG5 Mr Smyth's closing submissions.
- GAG6 Extracts from Bingley Locks and North Bog Activity and Interpretation Plan.
- GAG7 Extract from British Waterways Towpath Telegraph – March 2011.
- GAG8 Comments on the planning obligation and suggested conditions.
- GAG9 Representations in respect of the Framework.

## **OTHER PARTIES' DOCUMENTS**

- O1 Correspondence received in response to Document G2a.
- O2 Mrs Payn's statements and appendices.
- O3 Measurement of Healthcare Output and Productivity – Ambulance Response Times for Patients with Cardiac Arrest – Department of Health Technical Paper 6. Submitted by Dr Morley.
- O4/1-2 Photographs of road conditions in the vicinity of the appeal sites. Submitted by Mr Kunz.
- O5/1 Copy of register of title for land adjoining 66 Oakwood Drive. Submitted on behalf of Mr Burke.
- O5/2 Letter dated 28 February 2012 with attachments from Mr Burke to the Inspector concerning the ownership and adoption of land at Oakwood Drive.
- O6 Copy of register of title for 55 Oakwood Drive. Submitted on behalf of Mr Shimmin.
- O7 Mrs Fleming's statement.
- O8 Bundle of documents concerning transport matters from Cllr Heseltine.
- O9/1 Mr Pinchbeck's statement.
- O9/2 DVD of Micklethwaite Bridge operation. Submitted by Mr Pinchbeck.
- O10 Mr Butler's statement and appendices.
- O11/1 Mrs Stead's statement and appendices.
- O11/2 Information on sightings of white-letter hairstreak butterfly. Submitted by Mrs Stead.
- O12 Mrs Deakin's statement.
- O13 Mrs Bryden's proof of evidence and appendices.
- O14 Mr de Jong's proof of evidence and appendices.
- O15 Mr Harding's statement.
- O16 Mr O'Neill's statement.
- O17 Mr North's statement and appendix.
- O18 Mr Cahill's statement and appendices.
- O19 Letter dated 29 February 2012 from Bingley Civic Trust.

## GENERAL DOCUMENTS

- G1 Note of pre-inquiry meeting.
- G2/1-2 Notification of the appeals and the inquiry.
- G3 Statements of common ground.
- G4 Compliance note by the Appellants and the Local Planning Authority concerning the planning obligation.
- G5/1-2 Report and appendices concerning traffic management measures for the meeting of the Shipley Area Committee on 25 March 2004.
- G6 Minutes of the meeting of the Shipley Area Committee on 25 March 2004.
- G7 Miss France's proof of evidence on behalf of Redrow Homes for the UDP inquiry concerning land at Sty Lane.
- G8 Exchange of emails between Mr Bowman and Miss France concerning walking distances and times from site A.
- G9 Extracts from the List of Buildings of Special Architectural or Historic Interest – City of Bradford.
- G10/1 Lists of suggested conditions agreed between the Council and the Appellants.
- G10/2 Suggested condition concerning a construction environmental management plan. Submitted by the Council.
- G11 Bundle of documents concerning the adoption of land at Oakwood Drive.
- G12 Letter dated 29 March 2011 from English Heritage concerning cup and ring marked stone on site A<sup>72</sup>.
- G13 Suggested route for site visits agreed between the Council, the Appellants and GAG.
- G14 Planning obligation relating to the appeal proposals.
- G15 Tree preservation order on land adjacent to 37 Fairfax Road.

## PLANS

- A1-7 Plans forming part of application A, and submitted for determination.
- B1-10 Plans forming part of applications B and C, and submitted for determination.
- C Plan forming part of applications A, B and C, and submitted for determination.
- D1-17 Illustrative plans forming part of application A.
- E Illustrative plan forming part of applications B and C.
- F1-3 Draft plans for traffic management measures on Lady Lane.
- G Plan relating to Document G13.

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<sup>72</sup> The letter is marked redacted copy, but the Council confirmed that it is the correct copy of English Heritage's response on the cup and ring marked stone.



## Department for Communities and Local Government

### **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 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**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: 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 report of the Inspector's report of the inquiry or hearing within 6 weeks of 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.