

Mr Andrew Lynch
Decision Officer
Planning Casework Unit
Ministry of Housing, Communities and Local Government
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2 Marsham Street
London SW1P 4DF



YOUR REF: APP/W4705/V/18/3208020

**TOWN & COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY CEG LAND PROMOTIONS LTD.
LAND TO THE WEST OF BURLEY IN WHARFEDALE AT SUN LANE & ILKLEY ROAD
APPLICATION REF: 16/07870/MAO**

7th September 2020

Dear Mr Lynch,

Burley in Wharfedale Parish Council wish to draw the Secretary of State's attention to information that was not available when the original decision was made and to some material developments that have occurred since the decision was made. Specifically:

1. In the recent Aireborough Ruling, (Case No: CO/3279/2019) it was found that Leeds Council had acted unlawfully by not withdrawing all Green Belt sites following the reassessment of housing needs;
2. Bradford Council have rejected an application to build on land at Apperley Bridge because of inappropriate development in the Green Belt;
3. A Strategic Flood Risk Assessment commissioned by Bradford Council as part of its Core Strategy partial review has now reported that the land is a functional flood plain and should not be used for development;
4. Bradford Council appear to be selective in their application of the Local Core Strategy specifically in relationship to allowing a preference for smaller developments, rather than development of one large site. Since the original judgement was made Addingham's Neighbourhood Plan was adopted and passed by Bradford Council despite the inclusion of a preference for smaller developments when Burley in Wharfedale was instructed to remove the same clause; and
5. South Pennine Moors and Special Areas of Conservation (SPA & SAC)

1. Aireborough Green Belt Release

In the recent Aireborough Ruling, (Case No: CO/3279/2019, "**1 Aireborough Approved Judgment.docx**" attached) it was found that Leeds Council had acted unlawfully by not withdrawing all Green Belt sites following the reassessment of housing needs.

On 31st July 2019, Bradford announced that it is to cut housing targets by almost a third in the Partial Core Strategy review. Although council has started public consultation, the partial review isn't due to complete until late 2021 and yet this will have a significant impact on Green Belt release as demonstrated in the Aireborough judgement.

The implication of the Core Strategy partial review suggests that the release of Green Belt at Sun Lane is premature. This point was argued at the Government Inquiry in May 2019 since the original land allocation plan hadn't been completed by Bradford Council at that time.

2. Comparable Planning Developments Have Been Refused by Bradford Council

In June 2020, Bradford Council rejected for a second time an application to build on 0.53 hectare of land at Apperley Bridge, planning reference 20/02523/OUT (“**2 20_02523_OUT Decision Notice**” attached).

There are similarities between the proposed Sun Lane development and that at Apperley Bridge. Most notably, both are Green Belt developments and both proposals would harm the landscape character and appearance of the area, and both feed out into busy district distributor roads.

The protection afforded to the site at Apperley Bridge carries more weight than that at Sun Lane, particularly the landscape character. This is at odds with the land at Sun Lane which encompasses the south Pennine Moors, a Special Area of Conservation and the Nidderdale Area of Outstanding Natural Beauty.

The reasons for refusal are clear and unequivocal:

- a. Inappropriate development in the Green Belt and the absence of very special circumstances, affected policies GB1 and SC7.
- b. Fails to provide suitable visibility splays and would result in the creation of a substandard access on to an extremely busy district distributor road, resulting in conditions prejudicial to highway safety.
- c. The size and residential nature of the proposal would harm the landscape character and appearance of the area, affected policies DS2 and EN4

The reasons for refusal are precisely those which exist at Sun Lane. However, Sun Lane should be afforded more protection since:

- i. It is inappropriate development in the Green Belt and no special circumstances exist, that is the school is not being delivered as part of the developer’s proposal. This was the sole reason for very special circumstances to apply at Sun Lane.
- ii. The development feeds out onto the A65 trunk road which has a 40mph speed limit and is a recognised accident black spot. The inclusion of access to the A65 fails to provide suitable visibility splays (see attached “**2ii DETAILED INDICATIVE MASTERPLAN.jpg**”)
- iii. It is sandwiched between the SPA & SAC (South Pennine Moors) and the Nidderdale AONB. The size (26.4 hectare) and residential nature of the proposal would harm the landscape character and appearance of the area (policies DS2 and EN4).

Once again this highlights the issue of an inconsistent approach in the application of planning policy across the district.

3. Flooding and Water

The Council commissioned [JBA Consulting](#) to do a Strategic Flood Risk Assessment (SFRA) as part of its Core Strategy partial review.

JBA Consulting submitted their report to council in July 2019, post inquiry. Consequently, this information was not available to the Secretary of State to consider in his judgement.

The SFRA looked all the potential sites within the Strategic Housing Land Allocations Assessment (SHLAA) and gave each a rating from Flood Zone 1 to Flood Zone 3b (lowest to highest risk of flooding respectively).

Various approaches to addressing each risk were recommended, and the report sent to Council.

In this report, (see "**Flood Risk of Sites SFRA.xlsx**" attached) it highlights the Sun Lane development site (**Bradford Council reference of BU/001, at row 138**) is in **Flood Zone 3b**, the most extreme category; that of functional flood plain, and suitable only for infrastructure or water associated developments.

Within document "**SFRA Level 1 Appx D Functional Floodplain.pdf**", JBA Consulting define in section 2.2 that:

"A functional floodplain is a very important planning tool in making space for flood water. Generally, development should be directed away from these areas using the Sequential Test."

JBA Consulting also go on to state, at point 3, that the River Wharfe is defended. Flood defences comprise a raised curb of a little over 80 metres in length (**Cell 389, ref IL/017**).

The number and frequency of recent and historic flood events at Burley in Wharfedale, upstream at Ilkley and downstream at Otley, Pool in Wharfedale and York clearly demonstrate that flood defences are, at best, ineffective.

The report identifies key changes within the NPPF, at para A5.1 within Appendix 1, emphasising the need to now look at the "*Cumulative Impact*" of developments on flood risk, rather than in isolation for each development.

It also assesses the state of flood defences across the Council's area of responsibility, grading from 1 to 5; best condition to complete failure.

There is only one specific flood protection measure in the Burley in Wharfedale area, that of the flood embankment at Greystones Farm, on the Ilkley Road/A65, opposite the site. This is adjudged to be in category 5; failed completely.

In addition, the Bradford Council Core strategy policy **SC7** states that areas classed as 3b will not be used for development.

4. Inconsistent Application of Policy to the Detriment of Burley in Wharfedale

Burley in Wharfedale Parish Council was the first Parish Council within the Bradford district to publish a Neighbourhood Plan. However, in dialogue with Bradford Council and Litchfield's, acting on behalf of CEG, the Parish Council was instructed to remove all references to '**a single large development.**' (see "**Summary of Representations.pdf**" attached).

Following the release and modification of our Neighbourhood Plan, other Parish Councils started to produce their own Neighbourhood Plans. Addingham Parish Council were amongst the first few Parish Councils to do so.

Addingham's Neighbourhood Plan was adopted and passed by Bradford Council despite the inclusion of, at point 4.24 in the attached "**4 Addingham Reg 16 Draft Neighbourhood Plan - Submission Document.pdf**", "***a clear preference for smaller developments, in different parts of the village, rather than development of one large site.***"

This is indicative of Bradford Council's inconsistent approach to the application of planning policy. If Burley in Wharfedale Parish Council's plan failed to comply with the emerging Bradford Local Plan Core Strategy, then surely Addingham's would fail that test too, or was Burley in Wharfedale's plan subject to an external influence?

Irrespective of the outcome, Burley in Wharfedale Parish Council would seek to re-align its Neighbourhood Plan with that of Addingham Parish Council in respect of a preference for smaller developments, or at least have an explanation from Bradford Council as to why

Addingham's Plan complies with the Local Plan Core Strategy, whilst Burley in Wharfedale's does not?

The consequence of this is that Bradford Council have engineered a situation in Burley in Wharfedale that appears to create a Neighbourhood Plan acceptance of larger developments, when public sentiment shows the opposite is true.

5. European Sites SPA & SAC

Core Strategy **policy SC8** was originally addressed by the Inspector at the original Examination of the proposed changes to Bradford Council's Core Strategy **policy EN2**. A Freedom of Information (FOI) request was made by a resident prior to the Public Planning Inquiry. However, the documentation was not received in time to be included as evidence at the Inquiry.

The FOI reveals that the developer, CEG, was placing pressure on planners, councillors, Natural England and other groups, to, in their words, "hi-jack", the process. The email goes on to say that *"this seemed, as ever to be ignored by the inspector in setting the homework and there are indications he may adopt a 'hands-off approach' to the plan as the email conversations emphasise."* (See "**5 015-2015RE CEG Policy EN2 18.3.2015.pdf**" and "**5 016-2015 Update on Bradford Core Strategy 24.3.2015.pdf**"). We hold emails dating back to 2014 if they are required.

The effective removal of protection that was supposed to be encapsulated by **policy SC8** was diluted to undermine the protection afforded to the SPA & SAC sites, and effectively green lighted financial mitigation.

Last year and this, the SPA and SAC areas suffered several devastating fires that dramatically reduced the feeding areas available to the protected species. This year the arrival of Covid, has brought large visitor numbers to the moor which has inevitably led to further detrimental impacts on moorland wildlife.

Consequently, the SPA/SAC needs more, not less, protection, with species becoming increasingly reliant on land adjacent to the moors.

Conclusion

In conclusion, Burley in Wharfedale Parish Council recommends that the Secretary of State upholds his decision at Sun Lane and **rejects** the planning proposal considering new evidence submitted.

Yours faithfully,

Councillor J Lepley
Chairman of the Council

On behalf of Burley in Wharfedale Parish Council