

Report of Chief Planning Officer

Report to Director of City Development

Date: 6 December 2017

Subject: Deputation Bardsey Action Group (BAG) (November 2017)

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Harewood	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This Deputation is concerned with the impact of development upon the community of Bardsey and requests a City Council audit of flood risk liaison between agencies and other public bodies. The Deputation is also concerned with the democratic process that allows the public to be consulted on all issues that directly affect them and to be given as much information that allows them to come to an informed view.

Recommendations

2. The Director of City Development is asked to note the contents of this report as an appropriate response to the issues raised by the Deputation.

1 Purpose of this report

- 1.1 This Deputation is concerned with the impact of development upon the community of Bardsey and requests a City Council audit of flood risk liaison between agencies and other public bodies. The Deputation is also concerned with the democratic process that allows the public to be consulted on all issues that directly affect them and to be given as much information that allows them to come to an informed view.
- 1.2 These points are set within the context of concerns regarding the protection of the Green Belt and the impact of development between the A58 and Wetherby (a 'new suburb' and 'urban sprawl').

2 Background information

- 2.1 See paragraphs 1.1 and 1.2 above.

3 Main issues

- 3.1 The Deputation cites two areas of concern:
 - i) the impact of development upon the community of Bardsey and requests a City Council audit of flood risk liaison between agencies and other public bodies,
 - ii) the democratic process that allows the public to be consulted on all issues that directly affect them and to be given as much information that allows them to come to an informed view.
- 3.2 In relation to point i), the City Council wishes to reassure and reiterate to BAG that comprehensive and active arrangements are in place in respect of flood risk liaison between agencies and other public bodies. Within this context, the City Council can confirm therefore that there are established procedures and protocols in place to managing and mitigating flood risk. These procedures and protocols extend to Plan-making as well as the Development Management process. There is a statutory requirement for local planning authorities to consult the Environment Agency for developments in areas at risk of flooding (as defined in the [Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) before granting planning permission. The Environment Agency has [Standing Advice](#) available on its website which gives guidance to local planning authorities and developers where flood risk is an issue, including on when the Environment Agency should be consulted on planning applications. All local planning authorities should [notify the Environment Agency](#) of the decision on any planning application where the Agency has objected on flood risk grounds (NPPG, Paragraph: 043 Reference ID: 7-043-20150415). The City Council in discharging its local planning authority responsibilities, reflects these processes, legal and policy requirements in the preparation of the Local Plan and via the determination of planning applications. These obligations reflect best practice and are kept under review. In relation to development proposals of concern to BAG, these processes described above have been followed and on this basis it is not therefore considered necessary to undertake the audit as requested in the Deputation.

- 3.3 In the preparation of the Local Plan for Leeds (including the Core Strategy and the Site Allocations Plan) the Environment Agency and Yorkshire Water are both statutory consultees. In addition the City Council also needs to satisfy the legal requirements of the Duty to Co-operate, in demonstrating continued and on going engagement with prescribed bodies, which includes the Environment Agency.
- 3.4 In respect to flood risk affecting the communities mentioned in the Deputation, this is being managed in a number of ways, one being how future flood risk is managed through planning legislation and practice and the other is how current and future flood risk is mitigated through the actions of those who have a statutory role.
- 3.5 On the first point, the legislation connected to the planning system including the Land Drainage, Water Resources and Flood and Water Management Acts provide clear and strong frameworks and guidelines for developers, planners and flood risk management officers to work within. Meaning that clear evidence and detail around planned actions that impact on the flood risk in a given area must be provided and assessed before developments can take place. This is an ongoing work stream that requires strong and close working between those officers based within all the organisations involved in the assessment – Leeds City Council, Environment Agency and Yorkshire Water.
- 3.6 With regard to the second point, flood events in recent years do appear to be more frequent and have greater impact, flood risk is probability based and therefore events like those seen in late December 2015 could simply be as a result of probability or could also be influenced by a changing climate. There is an ongoing work stream that the Council is leading to reassess the base evidence for flood risk along the Wharfe catchment and it is taking a whole catchment approach to get the broadest understanding. This work will help to inform future investment in flood protection schemes as well as supporting the process outlined above in relation to managing flood risk through the planning system. As part of this process all the relevant organisations are working together to share data, work jointly on schemes and engage with the communities affected. This is taking place through the Wharfe Flood Partnership led by the Environment Agency and through the Otley Flood Alleviation Scheme and Wharfedale Flooded Communities projects led by Leeds City Council.
- 3.7 Equally both currently and despite future investment in flood defence schemes, communities will remain at flood risk as flood risk is rarely eliminated entirely, leading to the need for resilience to flood risk both at individual and community levels. As part of the review of actions taken by agencies involved in the response to the Storm Eva Boxing Day flood of 2015 meetings and further discussions have been held with residents and the flood group in Collingham. The City Council's Flood Risk Manager, would be happy to co-ordinate a similar meeting either jointly between those communities affected in the area or with BAG directly to discuss this further.
- 3.8 In relation to Main Issue ii) above, the City Council and its various services, operate and discharge responsibilities within the context of the Regulatory framework of Local Government, its constitution and statutory responsibilities.

Central to this is the imperative to ensure that agreed democratic processes are clearly set out and followed.

- 3.9 The Deputation makes reference to the impact of development within the Bardsey area and the availability of information relating to it. In Leeds the City Council is the Local Planning Authority, with responsibility for the preparation of the Development Plan (plan-making), including the Core Strategy and Site Allocations Plan, together with decision making in relation to individual planning applications via the Development Management process.
- 3.10 Both the Development Plan work and Development Management have prescribed requirements (set down in legislation) for statutory periods of public consultation and engagement. With regard to development plan preparation, it is necessary for these plans to be in compliance with the Statement of Community Involvement, where the City Council goes beyond the minimum statutory requirements. In addition, the planning service also provides technical support for the preparation of Neighbourhood Plans across the District, where there is considerable interest. Integral to these processes also is the need for planning policies to be evidence based and for the necessary background information to be clearly available in plan-making and decision taking in relation to the determination of planning applications. In respect of Development Management, public consultation (including enabling third party representations to be made, site notices etc) is integral to the process, and there is also an opportunity for residents to speak at the plans panel meetings. This is a clear and transparent process, to enable planning applications to be effectively.
- 3.11 By exception, in relation to the Development Management process, with regard to the disclosure of commercially sensitive information, there are established legal compliance and Governance procedures in place to ensure that such information can be considered as part of the decision making process, when it may not be appropriate (because of the sensitivity) for this information to be in the public domain. Under these circumstances material considered as 'pink papers' is integral to the decision making process, when put before plans panel members.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 This report is in response to a Council deputation and does not require any further consultation specifically in relation to the deputation. However, the report expresses a commitment for the Council's representatives to meet with BAG to discuss matters of concern specifically in relation to flooding. It should be noted also that the Development Management case officer has met with BAG to discuss local planning applications and issues.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 In agreeing to meet with BAG to review the flooding issues and the consultation arrangements embedded as part of the planning service, are consistent with the City Council's commitments to supporting Equality, Diversity, Cohesion and Integration.

4.3 Council policies and City Priorities

- 4.3.1 The Best Council Plan highlights the need for good economic and housing growth in the District, together with the need for effective environmental management and mitigation in relation to the implications of climate change. In taking these matters forward for Bardsey, the Best Council Plan promotes a fair and inclusive approach to the District's longer term development.

4.4 Resources and value for money

- 4.4.1 There are no resource/value for money considerations.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 This report is in response to a Deputation submitted to Council pursuant to Article 3.1 of the Council's constitution.

4.5 Risk Management

- 4.5.1 Managing flood risk and Town Planning as a process of managing land use change inevitably generates strong objections from people affected by plans and decisions. Therefore, the Council needs to be responsive to deal with concerns effectively.

5. Conclusions

- 5.1 This Deputation is concerned with the impact of development upon the community of Bardsey and requests a City Council audit of flood risk liaison between agencies and other public bodies. The Deputation is also concerned with the democratic process that allows the public to be consulted on all issues that directly affect them and to be given as much information that allows them to come to an informed view.

- 5.2 In relation to the first point paras. 3.3 – 3.4 provide an overview of the City Council's approach to managing flood risk in working with other agencies and bodies. This is a comprehensive and established approach, which has been followed in respect of development issues in Bardsey. As a consequence the audit as requested by the Deputation is not therefore considered necessary. In seeking to explain this approach further in relation to local circumstances and to help address any specific outstanding concerns in relation to the liaison between the various agencies and public bodies, the report sets out a commitment for the Flood Risk Management service to meet with BAG4.3 In relation to Governance issues and the Planning process, on the basis of the limited information referred to in the Deputation, the report describes the scope of planning in relation to Development Plan and Development Management, emphasising that public consultation, the availability of evidence and information is integral to the process and the fulfilment of statutory responsibilities.

6 Recommendations

- 6.1 The Director of City Development is asked to note the contents of this report as an appropriate response to the issues raised by the Deputation.

7. Background documents¹

7.1 None.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

Appendix 1: Deputation (to Council 8th November)

INTRODUCTION

Lord Mayor and Members of Council, thank you for the opportunity to make this address to the chamber.

My name is Chris Sidle, and I am representing Bardsey Parish Council, and here today making a joint deputation with Corina Kettlewell and Sophie Wreathall on behalf of the Bardsey Action Group (BAG).

We are here to draw your attention to a looming democratic and physical threat that would cause irreversible damage to our environment and the faith that residents of Leeds have in the power and determination of its elected representatives to uphold its principles of transparency and accountability. We share your democratic objectives and place our trust in you to help avoid this damage from happening.

We asked for this opportunity because of deep concern and frustration that months of attempted dialogue has destroyed Bardsey residents faith in the proscribed communication processes with the Council, that officials are being forced to withhold providing us with information, but are unable to justify why and to bring to your attention facts that you should be made aware of.

For 25 years the Parish Council and the independent Bardsey Action Group have unanimously supported Leeds City Council's green belt policy. The Parish Council has undertaken numerous consultations with residents – from design statements to the recently adopted Bardsey Neighbourhood Plan, all of which affirmed the need to find alternative solutions to our village housing need than the green-belt destructive proposals submitted by developers and landowners. BAG was formed in 1992 to reflect the residents concern about threats to the green belt during the lengthy Unitary Development Plan processes, and as these threats have re-emerged, is co-ordinating a joint response.

We share with Leeds City Council, our MP and our ward councillors a common purpose. To prevent development sprawl along the A58 between Leeds and Wetherby that would create a new suburb, one much loved by housebuilders but that would fail to address the real housing need in Leeds.

We therefore recognise the efforts that you as Councillors have made over the last decade to try to defend the A58 villages and landscape from the deluge of planning applications that seek to take advantage during the painstaking process of planning that you have gone through.

I began by highlighting two threats- physical and democratic.

So firstly, I will deal with environmental and landscape issues.

Like other communities in Leeds and West Yorkshire, Bardsey and its nearby neighbour Collingham have suffered from flooding. The impact for those most directly affected is devastating, and now Leeds CC is the main agency in partnership with the Environment Agency working to address the risk, including the impact of housing development. If the

risk management process was subsequently found to have overlooked a relatively small piece of information, and the omission led to a disaster, then the community would seek to hold those responsible to account.

The complex process of assessing risk, interpreting data and planning preventative measures is the preserve of experts. Simple observation, local knowledge and the collection of visual evidence of what were once rare occurrences now happening more frequently, is the preserve of residents. The combination of the two would create the best chance of avoiding the damage that can so easily ruin lives.

We ask the Council to audit how the flood risk liaison between its agencies and other public bodies is working and to meet with us to explain how they plan to address our detailed concerns that are probably not unique to our village.

The second subject of this deputation concerns the democratic process that allows the public to be consulted about all issues that directly affect them, and to be given as much information that allows them to come to an informed view as to the decisions to be taken in their name. We know that there are times when it would not be safe to provide public access to security intelligence, public health threats and a wide range of issues which most people will not be able to fully comprehend. But national and local government are committed to be fully transparent in carrying out their respective responsibilities, and to apply the powers invested in them to protect the public interest.

Again, I draw your attention to the impact of a blip in those processes. Despite its resolve to abide by its transparency principles. Leeds City Council can be forced into backtracking thus preventing public scrutiny. This can occur purely because of a clash between case law, statutory law and national and local guidelines, where only the legal implications are considered. The impact can be irreversible and at the stroke of a pen what you and residents have fought to avoid becomes a reality.

My Lord Mayor and Members of the Council.

These are not fanciful projections, they are current and real, and we want to work with you and your officials to prevent them from becoming reality. Even if this seems impossible, we can work together to persuade Government to urgently look at the guidance that is at the heart of the problems and by so doing confirm the trust that residents have in the power of its elected representatives to protect the communities it serves.

We thank you for this opportunity and hope to meet to discuss our deputation.