

**Karen Tweddle**

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**From:** Tom McFarland-Davidson <tom@locksdeestates.co.uk>  
**Sent:** 01 April 2022 08:59  
**To:** Tim.Crawshaw@environment-agency.gov.uk  
**Cc:** Mike Davidson; Nicola Farrell  
**Subject:** FW: The Borough Council of Calderdale (Elland Station & West Vale Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Compulsory Purchase Order 2022 ("the Order") [GELDARDS LLP-Cardiff.FID2117817]  
**Attachments:** 21\_00017\_LAA-ADDITIONAL\_FRA\_INFORMATION-1342665 (2).PDF; 21\_00017\_LAA-RESPONSE\_FROM\_ENVIRONMENT\_AGENCY-1367370 (2).PDF

Dear Mr Crawshaw

I refer to the above matter.

Please see below recent email exchanges between ourselves and Calderdale Council/their legal representatives, the content of which should be self-explanatory.

In short, we own the site immediately to the south west of the proposed new Elland Bridge. Our site is sandwiched between the River Calder and the Calder & Hebble Navigation. The site comprises a series of Grade II listed, former wharf buildings. Having never flooded in its history, our site has now flooded on 4 occasions in the last 10 years. On all but the most extreme event (Storm Desmond on 26 December 2015), the waters that have overwhelmed our site have come from the Calder & Hebble Navigation. These are flood flows that enter the canal from the River Calder further upstream and completely overload the canal. It is a very localised pattern/problem. Having studied the Council's proposed scheme and supporting evidence, we are concerned that the development will increase the flood risk to our site exponentially.

The proposed scheme involves the widening of the canal towpath immediately opposite our site. The effect of this will be twofold:

- a) By definition, the widening of the towpath entails the narrowing of the channel. In any storm/surge event, this will result in higher water levels in this section of the canal.
- b) Similarly, when considering water flows, the widening of the towpath on one side will divert the flow of water towards the other side of the canal (much like a traffic contraflow system).

The combined effect of these factors means increased water levels flowing directly towards our site during surge events (i.e. the "perfect storm", without wishing that to sound like a pun). As a former wharf complex, the ground level of our site is very close to the normal water level of the canal. Once it has breached the canal edge/towpath, it spreads across the site.

Moreover, as is highlighted in the email below, we have identified some fundamental omissions and discrepancies in the evidence that has been put forward by/on behalf of the applicant in support of the planning application relating to this scheme.

From the information provided, it appears to be the case that the proposed widening of the towpath, which is a fundamental component of the scheme, has not been built into the modelling undertaken by the Council's retained consultants (JBA). Only the proposed new bridge structures have been included.

It has also come to our attention that the mitigation measures set out in your letter dated 17 August 2021, which constitute a key planning condition imposed by the Environment Agency, are not being adhered to. The widening of the towpath entails a change (in this case a narrowing) of one of the waterways themselves. It cannot be classified

as a "change to the surface layout with no additional features or land raising" and must, by its very nature, have an impact on flood/water flows.

Regrettably, it would appear that the Environment Agency's consent to the scheme has been obtained via certain assurances/conditions, yet the Council and/or their consultants are not going to adhere to them.

For the record, we do not oppose a scheme such as this simply out of principle. The regeneration of towns such as Elland (especially areas of historical importance) and investment in infrastructure is a positive thing. Rather, we are concerned that the scheme has a direct negative impact on a series of Grade II listed buildings by increasing their vulnerability to flooding. We have sought a collaborative approach with the Council, yet as is clear from their cursory responses below they are not prepared to consider this.

I would welcome your comments on the above. If you'd like to talk through the issues over the phone, my number is 07989 555960. Alternatively, I'd be more than happy to meet with you on site to look at the risks/issues in the flesh if you think that might be useful.

I look forward to hearing from you.

Kind regards

Tom McFarland-Davidson

Lockside Estates Limited  
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**From:** Tom McFarland-Davidson

**Sent:** 30 March 2022 13:37

**To:** Charles Felgate <charles.felgate@geldards.com>; ellandaccesspackage@calderdale.gov.uk

**Cc:** Nicola Farrell <Nicola@locksideestates.co.uk>; Mike Davidson <mike@locksidedesign.co.uk>

**Subject:** RE: The Borough Council of Calderdale (Elland Station & West Vale Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Compulsory Purchase Order 2022 ("the Order") [GELDARDS LLP-Cardiff.FID2117817]

Dear Sirs

Thank you for your email dated 22 March 2022.

Please see our further comments below, in the same numerical order:

1. Access via Gas Works Lane

All noted, thank you.

2. Mooring rights on the Calder & Hebble Navigation

Please find attached Mooring Licence dated 28 September 2015 between ourselves and CRT, as requested.

3. Environmental impact of proposed widening of the towpath of the Calder & Hebble Navigation opposite Elland Wharf

With respect, the Council's response here is simply inadequate.

We have reviewed JBA Consulting's food risk assessment (attached) and it contains a number of inaccuracies and/or misrepresentations, as follows:

2.4 Historic Flooding – no mention whatsoever is made of the Storm Ciara floods, which took place on 9 February 2020. Once again, our site was devastated by flood flows coming from the Calder & Hebble Navigation. The omission of this event highlights the fact that JBA's information is incomplete and/or their modelling is inaccurate.

3.4.2 Elland Bridge Flood Zones – this reads “indicating that the flood zones for the canal are contained by the banks of the canal”. Plainly, this is absurd. Our site has been inundated with water from the Calder & Hebble Navigation on numerous occasions over the past 10 years, most recently on 20 February 2022. The fact that JBA's report does not recognise or acknowledge this is damning. The issue here is not the devastating 1 in 100+ year event (such as Boxing Day 2015), it is the less severe and increasingly frequent “minor” events that lead to flood flows into the canal alone. This is a very localised problem affecting the environs of Elland Wharf/Elland Bridge/Park Road etc. During these events the water level in the river in the immediate vicinity is nowhere near the level required to inundate these areas, it is the flood flows into the canal (from hundreds of metres upstream) that are overwhelming our site. In making the above statement, JBA are confirming that their modelling is flawed. The modelling produced/put forward on behalf of the applicant does not appear to be sophisticated or bespoke enough to plot these localised patterns. **Please ask JBA to run their modelling based on river levels on and around 20 February 2022 and confirm whether this shows any flooding to Elland Wharf.**

3.4.4 New and Improved Routes Flood Zones – this states “The improved routes will mainly be changes to the surface layout without any additional features or land raising, therefore will have low to negligible impact on flood flows”. This is not true. The widening of the towpath opposite Elland Wharf, by definition, is not a change to the surface layout. Furthermore, a change to the waterway itself (in this case by reducing the width of the channel) must, by definition, impact on flood flows.

5.1.1 Elland Primary Bridge – this states “The right and left banks of the Calder & Hebble Navigation Canal are both above the flood level of the canal's modelled flows”. This repeats the same flawed assumption proffered at 3.4.2 (see above).

5.3 Proposed Access Route Improvements – this states “Many of the proposed routes are existing hardstanding routes which will be upgraded, thus most of the impact of the proposed routes will be reduced to existing”. This perpetuates the inaccurate statement made at 3.4.4 that the improved routes will not entail any additional features or land raising etc (see above).

6.2 Fluvial Flood Risk – this states “The hydraulic modelled supplied by the Environment Agency has been used and it was updated to include the proposed bridge structures”. It is noted that there is no mention of the proposed widening of the towpath. **Please ask JBA to confirm whether their modelling included the widened towpath or whether, as it appears, the bridge structures alone formed the basis of the modelling. Assuming it is the latter, please ask JBA to re-run their modelling to take account of the widened towpath, noting the impact of the same on Elland Wharf.**

6.2.1 Modelled Fluvial Flood Risk – as above, this makes no mention of the widened towpath, referring only to the “proposed bridge structures”. Furthermore, the same inaccurate statement advanced at 3.4.4 and 5.3 is perpetuated once again, stating that “The proposed access routes are shown to be mainly upgrades to existing highway and pedestrian routes with minimal to negligible increases in hardstanding areas, it is understood that these will have no impact on the local fluvial flood risk”.

Further and in addition to the inaccuracies/misrepresentations highlighted above, we note that the Council states below that “Following the submittance of the appropriate evidence that any flood risk was being mitigated and still fell within the acceptable levels, particularly given the food zone this location falls in, the EA accepted the modelling and the scheme”. In reality, the EA objected to this scheme and that objection was subsequently removed via their letter dated 17 August 2021 (attached). That letter states that the EA's objection to the proposed development is removed if the following planning condition is included: *3. The associated improved routes will consist of changes to the surface layout and will not have any additional features or land raising (as highlighted in 3.4.4 [of JBA's flood risk assessment])*. It goes on to state that “these mitigation measures shall be fully implemented prior to occupation”

and "The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development".

These are the mitigation measures referred to by the Council in their response below. This is mirrored in the Executive Summary of JBA's flood risk assessment, which states "Overall, it is deemed that the Elland Access Package will have low to negligible impact on local fluvial flood risk and the proposed mitigation measures will reduce the impact of the proposals so that flood risk is not increased elsewhere". However, it is clear, for the reasons outlined above, that these measures will not be adhered to and the proposed scheme encompasses a fundamental deviation from the required convention. Put simply, the EA's consent has been obtained on the basis of various assertions and assurances made by/on behalf of the applicant that are plainly inaccurate. We would therefore challenge the validity of the EA's consent and, specifically, the basis upon which it has been granted.

We will now highlight these findings to the EA.

Please also be advised that we will now raise a formal objection to the Order.

Regards

Tom McFarland-Davidson

Lockside Estates Limited  
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(e) [tom@locksideestates.co.uk](mailto:tom@locksideestates.co.uk)

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**From:** Charles Felgate <[charles.felgate@geldards.com](mailto:charles.felgate@geldards.com)>

**Sent:** 22 March 2022 14:53

**To:** Tom McFarland-Davidson <[tom@locksideestates.co.uk](mailto:tom@locksideestates.co.uk)>; [ellandaccesspackage@calderdale.gov.uk](mailto:ellandaccesspackage@calderdale.gov.uk)

**Cc:** Nicola Farrell <[Nicola@locksideestates.co.uk](mailto:Nicola@locksideestates.co.uk)>; Mike Davidson <[mike@locksidedesign.co.uk](mailto:mike@locksidedesign.co.uk)>

**Subject:** RE: The Borough Council of Calderdale (Elland Station & West Vale Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Compulsory Purchase Order 2022 ("the Order") [GELDARDS LLP-Cardiff.FID2117817]

Sirs

Please see the Council's responses against your comments in red below.

Regards

Charles

**Charles Felgate**

Associate Partner

For and on behalf of Geldards LLP

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Email: [charles.felgate@geldards.com](mailto:charles.felgate@geldards.com)



**From:** Charles Felgate <[charles.felgate@geldards.com](mailto:charles.felgate@geldards.com)>

**Sent:** 07 March 2022 12:49

**To:** Tom McFarland-Davidson <[tom@locksideestates.co.uk](mailto:tom@locksideestates.co.uk)>; elland access package  
<[ellandaccesspackage@calderdale.gov.uk](mailto:ellandaccesspackage@calderdale.gov.uk)>

**Cc:** Nicola Farrell <[Nicola@locksideestates.co.uk](mailto:Nicola@locksideestates.co.uk)>; Mike Davidson <[mike@locksidedesign.co.uk](mailto:mike@locksidedesign.co.uk)>

**Subject:** RE: The Borough Council of Calderdale (Elland Station & West Vale Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Compulsory Purchase Order 2022 ("the Order") [GELDARDS LLP-Cardiff.FID2117817]

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Dear Sir

Thank you for the email, receipt of which is acknowledged. I will see instructions from those instructing me and either they or I will respond as soon as possible.

Regards

Charles

**Charles Felgate**

Associate Partner

For and on behalf of Geldards LLP

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**From:** Tom McFarland-Davidson <[tom@locksideestates.co.uk](mailto:tom@locksideestates.co.uk)>

**Sent:** 07 March 2022 12:00

**To:** Charles Felgate <[charles.felgate@geldards.com](mailto:charles.felgate@geldards.com)>; [ellandaccesspackage@calderdale.gov.uk](mailto:ellandaccesspackage@calderdale.gov.uk)

**Cc:** Nicola Farrell <[Nicola@locksideestates.co.uk](mailto:Nicola@locksideestates.co.uk)>; Mike Davidson <[mike@locksidedesign.co.uk](mailto:mike@locksidedesign.co.uk)>

**Subject:** The Borough Council of Calderdale (Elland Station & West Vale Access Package) (West Yorkshire Plus Transport Fund, Transforming Cities Fund) Compulsory Purchase Order 2022 ("the Order")

**EXTERNAL:** The real sender is [tom@locksideestates.co.uk](mailto:tom@locksideestates.co.uk). Do not click links or open attachments unless you recognise the sender and know the content is safe.

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Dear Sirs

We are in receipt of your letter dated 22 February 2022 in respect of the above Order.

Lockside Estates Limited owns the property known as Elland Wharf, which is sandwiched between Gas Works Lane and the Calder & Hebble Navigation, both of which are included within the Order.

There are numerous aspects of the proposed package of works that impact directly upon our property. As a result, we require further information on the below points before we are able to determine whether or not we will make an objection to the Order.

1. Access via Gas Works Lane (Plot No. 2/5 of the Order)

Our property, which is a complex of Grade II listed canal warehouses now converted into offices, together with an adjoining house, can only be accessed via Gas Works Lane. There are a number of businesses operating from the property/offices and these require uninterrupted 24 hour access. Please confirm, therefore, that the compulsory purchase of Gas Works Lane and the associated works will not interfere with the access to and from our property in any way.

Access will be maintained throughout to property and offices of the Canal Warehouse. We will ensure that this is required of our contractors and it is easily achievable, given the nature and extent of the works proposed to Gas Works Lane, which in reality extend to resurfacing and marking.

2. Mooring rights on the Calder & Hebble Navigation (Plot No. 2/1e of the Order)

On 28 September 2015 we entered into a Mooring Licence with the current title holder (Canal & Rivers Trust) of that stretch of the Calder & Hebble Navigation captured under the Order. This Licence gives us the right to moor boats in the canal basin running alongside Elland Wharf and to charge mooring fees for the same. Please confirm, therefore, that the compulsory purchase of this stretch of the Calder & Hebble Navigation will not affect our mooring rights under the aforementioned Licence. If title is passing to the Council, albeit on a temporary basis, please confirm that the transfer is subject to all existing rights and interests (i.e. the Mooring Licence dated 28 September 2015) and whether the Council will assume the role of Licensor. Furthermore, with the proposed widening of the towpath of the Calder & Hebble Navigation immediately opposite Elland Wharf, please confirm whether this stretch of the canal is to be closed/drained off completely whilst these works are carried out. If so, our ability to moor boats will be removed completely.

Thank you for informing us of your mooring arrangements. We will note our records accordingly. It is fully expected that this plot of the CPO will be removed on the basis of an agreement with the Canal and Rivers Trust (CRT). We have already engaged with the CRT and continue to negotiate with them. The mooring rights will be considered further during those negotiations. We will seek to avoid any impact to the canal basin via it being closed or drained if at all possible, but this will be discussed further with our contractors at the appropriate time and again will likely form part of our agreements with CRT. If it is necessary to acquire your interests to close or drain the canal basin then compensation may be claimed and may be payable in accordance with the compensation code. In the meantime could you please provide a copy of the Mooring Licence to us so that we can consider matters further.

3. Environmental impact of proposed widening of the towpath of the Calder & Hebble Navigation opposite Elland Wharf

Further and in addition to the above point concerning mooring rights etc, there is a much wider environmental consideration to the proposed widening of the towpath. By definition, these works entail the narrowing of this particular section of the Calder & Hebble Navigation. The Grade II listed buildings within the curtilage of Elland Wharf have been severely damaged by floods on no fewer than 4 occasions within the last 10 years (June 2012, December 2015, February 2020 and as recently as 20 February 2022), the flood waters having emanated from the Calder & Hebble Navigation. It is worth noting that prior to June 2012, the property had never flooded in its history; these repeated recent flood events must be attributed to climate change and flood defence works/changes to the watercourse further upstream. In short, Elland Wharf, which is one of Elland/Calderdale's important historical assets, is now critically vulnerable to flood events (to the point where our insurers will no longer provide us with flood cover). In widening the towpath immediately opposite and in doing so narrowing this section of the canal, the risk of flooding at Elland Wharf is exponentially increased. During an event when the volume of water in the Calder & Hebble Navigation surges, narrowing this stretch of the waterway can only result in an increase in the level. Furthermore, when considering the flow of water in this stretch of the waterway during one of these events, widening the towpath opposite Elland Wharf can only have the effect of diverting the flow towards our property. It is beyond doubt that this aspect of the proposed package of works will have an adverse effect on Elland Wharf and, as such, a detrimental impact on a complex of listed buildings.

In this respect, I would specifically draw your attention to the following:

The National Planning Policy Framework (NPPF) states (see Para 8.4 (d) of Calderdale Council's Statement of Reasons / Highways Act 1980 document): *"The environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, etc"*.

Policy GCF1 of the Local Planning Policy states: *"Infrastructure and other needs arising from development seeks to provide all education, highways, sewerage, drainage, **flood prevention**, landscaping, open space, nature conservation, public transport or other identified needs generated directly by any development within a local area"*.

Policy GCF2 of the Local Planning Policy states: *"Development enabling statutory undertakers to meet their statutory obligations and to comply with the relevant environmental standards enacted in Government and European Union legislation will be permitted providing that: **Mitigation measures are put in place to alleviate significant adverse impacts from the development**"*.

Policy GNE2 of the Local Planning Policy states: *"Protection of the environment outlines that development should protect, conserve and enhance the character, quality and diversity of the natural, **historic and cultural environment** (whether in urban or outlying areas) within the district in order to improve the quality of life for all etc"*.

Policy BE4 of the Local Planning Policy states: *"Safety and security considerations states that the design and layout of new development **should address the safety and security of people, property etc**"*.

Policy BE14 of the Local Planning Policy *"Sets out requirements for proposals impacting **listed buildings**"*.

Policy BE15 of the Local Planning Policy states: *"**Setting of a Listed Building will not permit development, where through its siting, scale, design or nature, it would harm the setting of a Listed Building**"*.

Policy EP20 of the Local Planning Policy states: *"**Protection from Flood Risk states that development will not be permitted if it would increase the risk of flooding due to surface water run-off or obstruction**, unless agreements are in place which allow the carrying out and completion of necessary works before the development is brought into use"*.

Policy CC1 of the Local Planning Policy states: *"**Climate Change requires development proposals should contribute to mitigating and adapting to the predicted impacts of climate change etc**"*.

Para 8.9.2 of Calderdale Council's Statement of Reasons / Highways Act 1980 document states: *"The Central Elland Sustainability SPD promotes the redevelopment, including improvements to the infrastructure of Central Elland in a manner that encourages its social, economic and **environmental suitability**".*

Notwithstanding these points, certain works/flood resilience measures could be undertaken to mitigate the adverse impact of the proposed package of works on Elland Wharf. Indeed, such measures could only fit in with all of the policies identified above. These works can be summarised as follows:

- i. A flood barrier/defensive wall could be constructed the full length of the towpath between Elland Bridge and the Warehouse building at Elland Wharf. This would also require the filling in of the slipway that currently opens onto the Calder & Hebble Navigation from Elland Wharf. Such a barrier would have the effect of shielding Elland Wharf from any water surging from the Calder & Hebble Navigation.
- ii. A sluice/run off could be incorporated into the proposed package of works somewhere to the north east of Elland Wharf. This would enable water to run from the Calder & Hebble Navigation back down to the River Calder in any storm/surge event. At present, if the River Calder spills over into the Calder & Hebble Navigation further upstream, this water has nowhere to go, even though it remains topographically higher than the level of water in the river itself. The excess water in the Calder & Hebble Navigation needs a route (downhill) back to the River Calder. Such a run-off would have a profoundly beneficial impact on the properties lining the Calder & Hebble Navigation either side of Elland Bridge (i.e. not just Elland Wharf alone), by providing any storm/surge waters with a ready-made route back to the river.

Our proposed works have gone through the local authority planning process. The above mentioned Policies have been taken into consideration when granting planning permission. Furthermore as a statutory consultee the Environmental Agency reviewed our proposals in detail during that process. The information submitted during the planning process included a comprehensive flood modelling review. Following the submittance of the appropriate evidence that any flood risk was being mitigated and still fell within the acceptable levels, particularly given the food zone this location falls in, the EA accepted the modelling and the scheme. The items you identify as "flood resilience measures" were not considered to be necessary as a result of the scheme. As a result they are outside the scope of this scheme and its funding body. However, as alluded to above, that is not to say that flooding and its impacts have not been considered in designing the scheme.

If the above measures were incorporated into the proposed package of works, we would have no objection to the same. However, as set out in this email, the current package of works would have a significant detrimental impact on a complex of listed buildings.

I note from your letter that the closing date for making any objection to the Order is 8 April 2022. I should therefore be grateful if you would provide us with a formal response to the points outlined in this email by no later than 4pm on Friday 18 March 2022. In the event that a satisfactory response is not received (namely; if the Council is not prepared to incorporate the above-suggested works into proposed package), we will have no alternative other than to lodge a formal objection to the Order.

I would of course be more than happy to speak to or meet with any representatives of the Council or their advisors to discuss these issues further. If this is of interest, please come back to me with some proposed dates and times at your earliest convenience. In the meantime, should you have any questions or require any further information, please do not hesitate to contact me.

Kind regards

Tom McFarland-Davidson

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