



APPENDICES to Appeal Statement

Demolition of the existing building known as Taxal Edge
and the detached garage building and the construction
of 7 dwellings – Taxal Edge, Macclesfield Road, Whaley
Bridge, SK23 7DR

for Treville Properties Ltd

Emery Planning project number: 19-429

PI ref: APP/H1033/W/21/3272745

LPA ref: HPK/2020/0301



Appendices

- EP1. October 2020 committee report
- EP2. November 2020 committee report and update report
- EP3. April 2021 committee report and update report
- EP4. Written submissions by Emery Planning re: April 2021 development control committee
- EP5. Decision Notice - appeal application
- EP6. Decision notice and location plan ref. HPK/2008/0069
- EP7. *Corbett & Cornwall Council and Wilson [2021] EWHC 1114 (Admin)*
- EP8. *Mansell v Tonbridge and Malling [2016] EWHC 2832 (Admin)*
- EP9. Decision notice ref. HPK/2009/0689
- EP10. Application form and drawings approved under application ref. HPK/2009/0689
- EP11. Decision notice ref. 2013/0503
- EP12. Officer report ref. 2013/0503
- EP13. Application form and drawings approved under application ref. 2013/0503
- EP14. Daylight and Sunlight Assessment dated 28.05.2021
- EP15. Local resident letter of support/interest

Appendix 1

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

5th October 2020

Application No:	HPK/2020/0301	
Location	184 Taxal Edge Macclesfield Road Whaley Bridge SK23 7DR	
Proposal	Demolition of the existing building known as "Taxal Edge" and the detached garage building and the erection of 7 no. dwellings	
Applicant	Treville Properties Ltd	
Agent	Emery Planning Partnership	
Parish/Ward	Whaley Bridge	Date registered: 24/07/2020
If you have a question about this report please contact: Rachael Simpkin rachael.simpkin@highpeak.gov.uk 01538 395400 extension 4122		

REFERRAL

The application scheme is locally controversial.

1. SUMMARY OF RECOMMENDATION

REFUSE

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site is around 0.37 hectares and comprises Taxal Edge, a large private house in grounds, and a detached garage. The house was a boarding school/hostel until 2008 when permission was granted for a change of use.

2.2 The site is accessed off a private road off Macclesfield Road, Whaley Bridge. A Public Right of Way HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary of the application site.

2.3 Adjacent to the site is a detached house which is a conversion of the original classroom block that accompanied the school.

2.4 Planning Permission ref. HPK/2009/0689 was granted in 2010 for the conversion of Taxal Edge into 7 apartments, and conversion of the classroom block and detached garage into detached houses. The classroom has now been converted into a dwelling and it is stated that some work has commenced on the apartments. Unauthorised works, however, appear to have been undertaken concerning the dwelling conversion with reference to the 3 prominent dormer windows and enlarged window openings albeit this

lies outside of the application site. It is not clear whether the dwelling is occupied or indeed the application site buildings.

2.5 Although work has commenced on the approved scheme, this permission has not yet been lawfully proven to be extant to be considered as a fall-back position in the event of refusal of the current application. This would require a Certificate of Existing Lawful Use or Development as the applicant has been advised. These matters will be investigated by the Council's Enforcement Team.

2.6 Under the Town and Country Planning Act 1990, Town and Country Planning (Tree Preservation Orders) (England) Regulations 2020, the Council has made Tree Preservation Order 2020 No. 294 for the wider application site, which came into temporary force on the 18th September 2020. Objections or comments are due to be received by the 23rd October 2020.

2.7 The application site lies outside the Built-up Area Boundary of Whaley Bridge as defined on the Policies Map within the Adopted Local Plan. The site therefore lies within the countryside with a landscape character type of Settled Valley Pastures.

3. DESCRIPTION OF THE PROPOSAL

3.1 The applicant seeks full planning permission for demolition of the existing building and the detached garage building and the erection of four 4-bed semi-detached and three, 6-bed no. detached dwellings of a 2.5 storey scale and arranged in a linear formation along the rear slope of the site. Integral garages are proposed for each house.

3.2 For the existing detached house, which is the converted classroom in relation to Planning Permission ref. HPK/2009/0689, a detached flat-roofed double garage and study is proposed which would be set into the slope of the site.

3.3 Each house would be constructed of reclaimed natural grit stone brick, grey aluminium windows and blue/grey natural slate roof. Each would have driveways and front and back gardens served off a private driveway which culminates at the end plot.

3.4 Access is gained from the Macclesfield Road as per the existing arrangements.

3.5 The application and details attached to it, including the plans, supporting documents, representations and consultee responses can be found on the Council's website at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=241372>

4. RELEVANT PLANNING HISTORY

HPK/0002/5081 - Additional Car Parking Provision Adjacent To Main Driveway. APPROVED 06/04/1987

HPK/2008/0069 - Change Of Use Of Taxal Edge From Boarding Hostel And Associated Ancillary Residential Accommodation To Use As Single Family Dwelling. APPROVED 28/03/2008

HPK/2009/0209 - Change Of Use From Single Dwelling To Ten Apartments Involving Internal Alterations Only. WITHDRAWN 26/06/2009.

HPK/2009/0689 - Conversion Of Single Dwelling House To Provide Seven Apartments And Conversion Of Classroom Block And Disused Garage Into Two Detached Houses. APPROVED 29/03/2010

HPK/2013/0503 - Proposed Conversion Of Taxal Edge 184 Macclesfield Road To Form 5 Apartments And To Construct 2 New Semi Detached Houses In The Area Of The Existing Gymnasium. APPROVED 25/11/2013

HPK/2015/0518 - Application for outline permission for proposed semi-detached dwellings. REFUSED 11/12/2015

5. CONSULTATIONS

Expiry:

Site notice	01/09/2020
Press notice	N/A
Neighbours	13/08/2020

Public comments

A total of ten 'objection' representations have been received, summarised as follows:

- An increase to planned numbers of dwellings will affect the rural feel of the area
- Added impermeable surfaces will increase water run-off onto Macclesfield Road, and Linglongs Road, which already floods in periods of wet weather
- Potentially dangerous road access from/to Macclesfield Road
- Addition of further traffic in Whaley Bridge
- Bin collection area planned too close to existing houses
- Right of way through property used by walkers – this track has been widened without permission
- Loss of wildlife habitat
- Woodland forms part of approach to National Park
- Will intrude on and overlook the houses further down the slope, particularly due to three storey height
- Loss of light to houses on Linglongs

- 4 and 5 bedroom houses will not help locals trying to get on the housing ladder, and there is plenty of supply at this end of the market
- Impact on protected trees
- Development should be restricted to the footprint of the current building
- A covenant is in place that any new buildings erected on the land shall not exceed the height of the building as at 31 March 2016
- Previous development on this site was refused as unsustainable
- Will be very difficult for construction vehicles to turn on access road
- Land has the potential for contamination – not addressed
- Loss of trees – including those under TPOs
- Alleged HMO use of property in recent years without permission
- Part of the site is countryside
- Slope stability concerns
- Concern that works will cause land stability and threaten 21 Linglongs Avenue
- Concern about overlooking

A total of six 'support' representation have been received, summarised as follows:

- The junction is historically a safe one
- The proposal is more attractive than the current building
- Improving the access road (PROW) will help those with mobility issues
- Support for resurfacing of road – neighbours were consulted
- Will improve area
- This application is better than the one for 9 properties in 2013
- Treville developments elsewhere in High Peak are of good quality and support local firms

Councillor Kath Thomson

I am objecting to this development for several reasons. The main one is these houses will not be affordable housing for local people which Whaley is desperate for. We must think of the houses below the development which will be looked on. The road going up to this site is totally unacceptable for the amount of possible traffic, we will have enough extra housing with the Linglongs housing and enough extra traffic. If these houses were smaller or more affordable, even for rent local people it would maybe be more favourable. Rentable property is almost non existent in our village. Therefore I object.

Consultees

<u>Consultee</u>	<u>Comment</u>	<u>Officer response</u>
AES Waste	No Objection	
Notes: Bin Collection point - Please make sure this area has enough room for bins so not to cause an obstruction on collection days. Potentially 14 bins there on recycling days. Also no bin storage identified at properties.		

United Utilities	Conditional Response	
<p>Drainage</p> <p>In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.</p> <p>We request the following drainage conditions are attached to any subsequent approval to reflect the above approach detailed above:</p> <p>Condition 1 – Surface water</p> <p><i>No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:</i></p> <p><i>(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;</i></p> <p><i>(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and</i></p> <p><i>(iii) A timetable for its implementation.</i></p> <p><i>The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.</i></p> <p><i>The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.</i></p> <p><i>Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.</i></p> <p>Condition 2 – Foul water</p> <p><i>Foul and surface water shall be drained on separate systems.</i></p> <p><i>Reason: To secure proper drainage and to manage the risk of flooding and pollution.</i></p> <p>The applicant can discuss any of the above with Developer Engineer, Matthew Dodd , by email at wastewaterdeveloperservices@uuplc.co.uk.</p> <p>Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).</p> <p>If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we</p>		

strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

Management and Maintenance of Sustainable Drainage Systems

Without effective management and maintenance, sustainable drainage systems can fail or become ineffective. As a provider of wastewater services, we believe we have a duty to advise the Local Planning Authority of this potential risk to ensure the longevity of the surface water drainage system and the service it provides to people. We also wish to minimise the risk of a sustainable drainage system having a detrimental impact on the public sewer network should the two systems interact. We therefore recommend the Local Planning Authority include a condition in their Decision Notice regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development. For schemes of 10 or more units and other major development, we recommend the Local Planning Authority consults with the Lead Local Flood Authority regarding the exact wording of any condition.

You may find the below a useful example:

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or,*
- management and maintenance by a resident's management company; and*
- b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.*

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

Please note United Utilities cannot provide comment on the management and maintenance of an asset that is owned by a third party management and maintenance company. We would not be involved in the discharge of the management and maintenance condition in these circumstances.

Water Supply

The applicant must undertake a complete soil survey, as and when land proposals have progressed to a scheme design i.e. development, and results submitted along with an application for water. This will aid in our design of future pipework and materials to eliminate the risk of contamination to the local water supply. We can readily supply water for domestic purposes, but for larger quantities for example, commercial/industrial we will need further information. The applicant should be instructed to lay their own private pipe, to United Utilities standards, back to the existing main. If this should involve passing through third party land United Utilities

must receive a solicitor's letter confirming an easement, prior to connection. According to our records there are no legal easements affected by the proposed development. If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for.

To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at DeveloperServicesWater@uuplc.co.uk. Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.

United Utilities' Property, Assets and Infrastructure

A public sewer crosses this site and we may not permit building over it. We will require an access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of Part H of the Building Regulations, for maintenance or replacement. Therefore a modification of the site layout, or a diversion of the affected public sewer may be necessary. All costs associated with sewer diversions must be borne by the applicant.

To establish if a sewer diversion is feasible, the applicant must discuss this at an early stage with our Developer Engineer at wastewaterdeveloperservices@uuplc.co.uk as a lengthy lead in period may be required if a sewer diversion proves to be acceptable. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems. Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.

Whaley Bridge Parish Council	Objection
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The Council's main concerns are over the maintenance of the footpath and access to Macclesfield Road. The access road comes out onto a blind corner and the Council is concerned about the vision splays onto Macclesfield Road. The footpath is well used by members of the public and the Council is concerned that there will be cars traveling down a well-used footpath as well as over the ongoing maintenance of this footpath. Finally, the Council thinks the area is a sensitive area from a landscape point of view and that there are too many properties proposed in the space.

Derbyshire Wildlife Trust	Conditional Response
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The above application is accompanied by an Ecological Appraisal (NLG Ecology Ltd, 2020) and a Bat Survey Report (NLG Ecology Ltd, 2020). These provide sufficient information to enable the LPA to determine the application.

The main building supports a small number of roosting pipistrelle bats and as such a licence will be required to legalise the demolition and loss of these roosts. The mitigation and compensation measures summarised in the Bat Survey Report are considered suitable and will be detailed in the bat licence submitted to Natural

England.

Proposals include compensatory native tree and shrub planting to offset any tree removal and a Woodland Management Plan for the rest of the woodland within the land holding. We recommend that a bat box scheme could be installed within the woodland as part of this Plan. These measures should avoid a net biodiversity loss and potentially bring about a net gain. In addition, we advise that a Construction Environmental Method Statement (CEMP) is conditioned to secure precautionary measures for site clearance, sensitive lighting during construction, woodland edge protection etc.

The ecology report highlights that the application area lies within the Impact Risk Zone (IRZ) for Toddbrook Reservoir Site of Special Scientific Interest (SSSI). The identified risks for this SSSI include “all planning applications (except householder)”. As such, the LPA should consider consulting Natural England with regards to the Impact Risk Zone.

Should the LPA be minded to approve the application, we advise that the following conditions are attached:

Bat Licence and Mitigation

The demolition of the main building shall not take place until either a Bat Low Impact Class Licence or a European Protected Species licence has been obtained from Natural England. Upon receipt of a licence from Natural England, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Bat Survey Report (NLG Ecology LTD, 2020). Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence will be submitted to the LPA once granted. Confirmation will also be submitted to the LPA once all mitigation is installed, along with a copy of the results of any monitoring works.

Construction Environmental Method Statement (CEMP: Biodiversity)

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be based on recommendations in the Ecological Appraisal (NLG Ecology Ltd, 2020) and the Bat Survey Report (NLG Ecology Ltd, 2020) and include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.
Woodland Management Plan

Prior to the completion of the development, a Woodland Management Plan shall be submitted to the LPA for approval, in accordance with details in paragraph 4.1.19 of the Ecological Appraisal (NLG Ecology Ltd, 2020). The approved scheme shall be implemented in full in perpetuity.

Natural England	Awaited	Members will be updated via the Update Sheet
DCC Urban Design Officer	Objection	

The site lies outside the settlement boundary on the western edge of Whaley Bridge. There is a distinct change between built up character and woodland character landscape. The green belt designation falls to the western edge of this band of woodland. The site is banked above the B5470. When visiting the site, it was evident that changes are being made now with piles of rubble, stone and cut down trees, some that look like substantial Beech trees.

The lane presently consists of an unmade track and the creation of a hard surface driveway will significantly change the character and appearance of this soft edge to the current settlement boundary. Presently the wooded landscape is characteristic of the setting of the existing building, typical for a large detached Edwardian Villa of this period. The change to a linear form of three storey dwellings is a change that diminishes the landscape setting significantly.

I am concerned from public comments that the character of this access road has already been altered from a cobbled walkway with gritstone kerbs to a widened track. This loss is regrettable as it leads to a gradual erosion of the countryside character and prevents a proper assessment from being made. This alters the aesthetic value of this wooded approach, the character of the edge of settlement and the transition into countryside and the National Park.

Any increase in number of houses and vehicle activity on the access road close to Macclesfield Road needs to be considered. This may have implications on the design of the junction and subsequent loss of character of this edge of village. If it were the case that a more engineered highway solution would result, then I would consider this a significant loss of character.

The proposed houses will appear dominant and do not relate well to Beech Rise and Linglongs Road. The existing large Edwardian house is a two-storey building with hipped slate roofs and projecting bay windows. Having had several unsympathetic alterations over the years, with felt roof dormer, half-timber additions, and external metal staircases, it appears in a rundown condition. However, the option of restoring the building is still a possibility and it may have value as a non-designated heritage asset. I would support this approach.

A new substantial detached 2 storeys dwelling with three large dormers and large windows built to a more contemporary style with reclaimed natural grit stone brick,

grey aluminium windows and blue/grey natural slate roof has been established on site. This is set back quite separately and elevated to the main building. This building replaces the previous classroom block and contrasts in style to the main building. My main concern is to ensure the sensitive treatment of the overall landscape setting around both buildings as at think this new house would be better to appear less dominant in the landscape setting.

On the proposals map, the site is located adjacent to but outside of the built-up boundary of Whaley Bridge. It is in the countryside between the built-up area boundary and the Green Belt. From an Urban Design perspective, the main consideration is whether the character relates well to the existing pattern of development and surrounding land uses and of an appropriate scale.

The 1843 – 1893 Map shows Taxal Wood below extending into Walker Brow. This natural woodland wedge with footpath HP23/56/1 traditionally defines the edge of settlement. The track leads to registered common land at Taxal Moor which suggests it is an historic route to and from the village. This has a heritage value and the changes to the track should be considered as it is diminishing this historical footpath by changing its character.

The later housing area backing onto the track gives a clear hard built up edge. The large buildings within the woodland area to the west of the track are in their own parkland setting of a distinctively different character. To extend a denser pattern of development into this woodland area is not very well connected with the existing pattern of development, it is also destroying the woodland character of the site to an extent of impacting on the character of the countryside edge. The applicant may suggest that it is a logical extension of the built edge towards the Macclesfield Road, but I would dispute this as it is the landscape character that is the defining element.

I think the long front driveways and gardens will emphasis the completely changed nature of the landscape setting and increase the amount of hard surface intrusion into this woodland area. Surfaces should be kept to a minimum. Despite showing trees retained next to Brewood to create a woodland gap, it has the effect of separating the group of houses within the site with no continuity.

The Scale is substantial when considered on mass. The bulk of the dwellings appear three storeys due to the large wide dormer windows. I also find the integral garages not a very authentic response in this woodland location. Image No2 showing a high wall to rear boundary and stepped retaining walls to allow for subterranean garages exaggerate the height of the houses, particularly at plot 7 showing the existing house with the garages in front. The overall impression is more of a modern town house development. This is not the response I would expect at this woodland edge and rural edge where I would expect a more traditional vernacular. I can see that the adjoining housing estate is of a similar grain with contemporary houses, but it is still the case that the development is not responsive to the actual site conditions and relies on significant remodelling. It is not contextual to the immediate site of the edge of settlement location. A more dispersed pattern and low-key development would be a better response.

The images show little remaining trees and a landscaped frontage with manicured lawned frontages. This will look unattractive in this location. These modern 'large

Victorian villas' in terms of scale and massing, are exaggerated by the addition of the frontage terraces and garages and retaining walls which to me detracts from the overall architectural response.

The character of the original main building was that of a country residence standing in large grounds constructed around 1918. This character is typical of large detached Edwardian houses of that period found in such edge of settlement location within their own generous grounds. I would prefer to see a scheme that maintained the existing building and grounds as they are without extensive remodelling of the site or introduction of extensive hard surfaces with the existing trees and landscape layout remaining largely unaffected. The present application represents the extension of the existing residential use to the point of changing the whole character of the site. The long driveways are intrusive.

Conclusion: From an Urban Design Perspective, the current site has a significantly different character to the adjoining urban area and represents a characterful landscape transition to the adjoining countryside. It has a distinctive character and placemaking qualities that will be destroyed by the proposed development, which is overly dominant within this woodland setting and does not relate well to the adjoining suburban streets. A more low-key traditional development would be more in keeping with the few traditional houses remaining outside the settlement boundary. However, my preference would be for the retention and renovation/reuse of the main building than the proposed development of linear houses. The site required more sympathetic treatment of external works to be contextual to the current setting.

Arboricultural Officer	Objection	
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The site is partially covered by a DCC TPO and the trees on the site are an important landscape feature. I am aware that some tree works have been undertaken for safety reasons and these have been agreed with DCC where the trees were covered by there TPO. However there are a number of trees in site not covered by this TPO which will be affected by the proposals.

The Arboricultural report submitted with the application relates only to safety issues with a selected number of the trees. Whilst its content is noted it does not provide the information required to assess the impact of the proposals on the trees.

In particular:

- A detailed up to date tree survey in accordance with BS5837:2012
- A clear indication of trees to be removed and retained as part of the proposals
- The root protection areas required for the trees to be retained
- Any indication of how the trees will be protected during construction

The proposed layout and arboricultural impact:

- From the plans it appears that Plots 1, 2, 5, 6, and 7 all encroach on the rooting areas of trees shown to be retained. This combined with the required level changes on site could be detrimental to the trees
- The access road near to no 7 also encroaches into the rooting area of a tree to be retained

- There is a suggested replanting scheme but this not suitable for replacing the trees that will be impacted on due to the proposals. The planting consists of largely or relatively short lived species and which are almost entirely from one family.

DCC Landscape Officer
Objection

Views of the site are contained by existing mature trees from many viewpoints, however the Public Right of Way HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary providing close views, sometime clear and sometimes through vegetation. The presence of this footpath is significant in increasing numbers of receptors and their experience of the character of the site.

Due to the well wooded nature of the site it has a distinct woodland character and contrasts with the adjacent built up character of the housing to the east. There is no development to the west and the site abuts countryside.

The proposal is to demolish the existing building, a large detached Edwardian Villa and construct 7 new dwellings. The Design and Access Statement states that the proposed dwellings would be located where the existing buildings are located. However, plots 5, 6 and 7 and garages to plot 7 are located outside the footprint of existing buildings. The proposals include extensive level changes, tree removal and road construction and as such I consider they would fundamentally change the character of the site including the lane and public footpath at the entrance and could not be considered to protect, enhance or restore the Landscape Character of the site. I consider that the proposed layout design is poor, particularly how level changes are imposed into the landscape with a multitude of driveways ramping up to houses with retaining walls, along with the turning area and passing places they provide an extremely poor frontage.

Information relating to existing trees in the application is vague, the tree survey concentrates on existing trees to the south and east of the site, and it does not seem to include trees to the north east of the site where most development is proposed. Some trees to be removed are shown on the existing Site Plan however no information is given regarding their quality or value. There are also several trees that are close to the proposed development area that would be affected by the works and at a site visit on 04/08/20 it was noted that felling had commenced to remove some of these trees. The proposed Site Plan and Landscape Works Plan show existing trees that are very close to dwellings and a new retaining wall to the north east boundary both of which are likely to have a significant impact on existing trees.

Tree planting shown on the Landscape Works Plan is mostly of small ornamental species, I consider that there is scope in places to accommodate larger growing species and suggest that Beech are included to be in keeping with the existing character of the site.

Overall I consider the proposals to be very insensitive to the existing site features and the character of the site. The proposed level changes and retaining walls in particular will have a significant and detrimental landscape impact at a local level. I would prefer a development that retains and converts the existing building. In this

way the existing trees and overall character of the site could be preserved.

DCC Highways	Conditional Response
<p>As discussed, Consent has been granted in the past for a development comprising 7no. apartments and 2no. residential units subject to minor access improvements and formal closure of a second access to Macclesfield Road.</p> <p>Whilst the improvements to the access with Macclesfield Road have not been implemented, it is suggested that traffic activity associated with a development of 8no. residential units would not be so different as to warrant a refusal on highway Grounds, subject to the previously suggested measures being satisfactorily completed prior to any occupation. However, it is recommended that the introduction of a dropped kerb across the access is explored rather than use of carriageway markings as this would be considered to provide more physical protection to emerging vehicles as well as being more durable.</p> <p>Internal layout wise, the provision of a passing opportunity is noted as is the proposed turning facility that would appear to be of adequate dimension to enable a typical supermarket delivery vehicle to turn.</p> <p>Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.</p> <p>Whilst I do not have any details printed to scale, and the General Arrangements Plan is not dimensioned, in order to comply with current design guidance, the overall shared driveway corridor should be a minimum of 7.5m width.</p> <p>There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.</p> <p>A bin collection point is demonstrated in close proximity to the site entrance, however, it is recommended that the views of the local refuse collection are sought with respect to suitability of the proposals for their purposes i.e. if they intend to make collections from within the site, suitability of the turning head for use by a Large Refuse Vehicle of 11.6m length should be demonstrated by means of swept paths.</p> <p>The proposed level off-street parking provision is considered to be acceptable.</p> <p>Therefore, if you are minded to approve the proposals, it is recommended that the following conditions are included within the consent:-</p> <p>1. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme of highway improvement works for the junction of the access road with Macclesfield Road (B5470) together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to</p>	

comply with the requirements of this Condition.

2. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained free from any impediment to their designated use throughout the construction period.

3. Prior to the construction compound, the subject of Condition 2 above, being brought into use, the existing vehicular access to Macclesfield Road adjacent to Brewood shall be permanently closed with a physical barrier in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

4. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme showing the proposed shared driveway layout shall be submitted to the Local Planning Authority for written approval, including intervisible passing opportunities and a turning facility suitable for use by the largest vehicles likely to frequently visit the site, laid out and constructed in accordance with the approved designs, the area in advance of sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining shared driveway channel level.

5. No dwelling shall be occupied until space has been provided within the application site in accordance with the revised application drawings for the parking/ loading and unloading/ manoeuvring of residents/ visitors/ service and delivery vehicles to suitably serve that dwelling, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

6. There shall be no gates or other barriers within 15m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

7. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.

8. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed shared driveway have been submitted to and approved by the Local Planning Authority. The driveway shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

In addition, the following Advisory Notes may be included for the information of the applicant:-

a. The Highway Authority recommends that the first 10m of the proposed access

driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner

b. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

c. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

d. The applicant is advised that to discharge Condition 8 that the Local Planning Authority requires a copy of a completed Agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

e. The application site is affected by Public Rights of Way (Footpath numbers 56 and 95 Whaley Bridge on the Derbyshire Definitive Map). The route of these must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Advice regarding the temporary diversion of such routes may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01529 580000 and ask for the Rights of Way Officer).

f. Car parking spaces should measure 2.4m x 5.5m (2.4m x 6.5m where located in front of garage doors) with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc., and adequate space behind each space for manoeuvring.

HPBC Health	Environmental	Awaited	Updated to be provided via the Update Sheet
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6. PLANNING POLICIES RELEVANT TO THE DECISION

High Peak Local Plan Adopted April 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S3 Strategic Housing Development
- S6 Central Sub-area Strategy

EQ1 Climate Change
 EQ5 Biodiversity
 EQ6 Design and Place Making
 EQ7 Built and Historic Environment
 EQ8 Green Infrastructure
 EQ9 Trees, Woodlands and Hedgerows
 EQ10 Pollution Control and Unstable Land
 EQ11 Flood Risk Management
 H1 Location of Housing Development
 H3 New Housing Development
 H4 Affordable Housing
 H5 Rural Exception Sites
 CF3 Local Infrastructure Provision
 CF5 Provision and Retention of Local Community Services and Facilities
 CF6 Accessibility and Transport
 CF7 Planning Obligations and Community Infrastructure Levy

Supplementary Planning Documents (SPD)

- High Peak Design Guide SPD (2018)
- Landscape Character SPG (2006)
- Residential Design Guide SPD (2005)

National Planning Policy Framework (NPPF) 2018

National Planning Practice Guidance (NPPG)

7. POLICY AND MATERIAL CONSIDERATIONS

Planning Policy Context

7.1 The determination of a planning application should be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan currently consists of the Adopted High Peak Local Plan 2016.

7.3 The NPPF (National Planning Policy Framework) as revised was issued in February 2019. The NPPF is considered to be a mandatory material consideration in decision making. The applicable contents of the NPPF will be referenced within the relevant sections of the officer report as detailed below.

7.4 As before achieving sustainable development sits at the heart of the NPPF as referred to within paragraphs 10 and 11. This requires the consideration of three overarching and mutually dependant objectives being: economic, social and environmental matters where they are to be applied to local circumstances of character, need and opportunity as follows:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of the present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well being; and,*
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making the effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

7.5 LP (Local Plan) Policy S1a establishes a presumption in favour of sustainable development as contained within NPPF paragraph 11. It requires decision makers to apply a presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay or where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless:-

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.6 The Council can currently demonstrate 5.37 years supply of housing land (as at December 2019), and the Council has passed the Government's Housing Delivery Test in both results published to date achieving 152% delivery in the 2019 measurement published in February 2020. Accordingly, for decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay within the context of NPPF paragraph 11.

Principle of Development

7.7 The application site lies outside the Built-up Area Boundary of Whaley Bridge as defined on the Policies Map within the Adopted LP (Local Plan). The site therefore lies within the countryside with a landscape character type of Settled Valley Pastures.

7.8 LP Policy S2 'Settlement Hierarchy' herein applies. It states that development will be directed towards the most sustainable locations in accordance with the following settlement hierarchy: Market Towns, Larger Villages and Smaller Villages. In accordance with the settlement hierarchy, development here will be strictly limited to that which has an essential need to be located in the countryside or comprises affordable housing in accordance with LP Policies EQ3 and H5.

7.9 LP Policy S2 also refers to Other Rural Areas. It says that in all other areas outside the settlement boundary of settlements, including those villages, hamlets and isolated groups of buildings in the Green Belt and the countryside, which do not have a settlement boundary, development will be strictly controlled in accordance with LP Policies EQ3 (Rural Development) and H5 (Rural Exception Sites). LP Policy EQ3 identifies those circumstances where new residential development will be permitted and includes development which would meet with LP Policy H1.

7.10 LP Policy S3 'Strategic Housing Development' sets out that provision will be made for at least 7,000 dwellings over the plan period (2011-2031) at an overall average annual development rate of 350 dwellings. It goes on to say that sufficient land will be identified to accommodate up to 3,549 additional dwellings on new sites. The policy makes it clear that this will be met from large sites allocated in policy H2 and from small sites which accord with policy H1. Allocations account for 623-729 dwellings with the remainder (a total of 400 dwellings) to be met on small sites at for the Central Area and the villages within the Central Area. Accordingly, given the scale of development, and that this site is considered to be a small scale development in the context of the Whaley Bridge settlement, the development is considered acceptable under LP Policy S3, subject to compliance with LP Policy H1.

7.11 As the application site is outside any defined settlement boundary, LP Policy H1 is relevant to the proposal. It states that the Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other LP policies, provided that four criteria are met, which are:

- 1) the development would adjoin the built up area boundary and would broadly be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and*
- 2) it would not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside, and,*
- 3) it would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities, and,*
- 4) the local and strategic infrastructure would be able to meet the additional requirements arising from the development of this scale.*

7.12 The site adjoins the built up area boundary to the east. Therefore it is necessary to consider whether the site complies with the remaining three criteria. These aspects of the development scheme will be discussed in further detail within the relevant sections below.

7.13 As well, the definitive lawful use of the site appears as a children's home, where no definitive evidence has been provided that the existing use is no longer financially or commercially viable and that there are no other means of maintaining the facility, or an alternative facility of the same type is available or can be provided in an accessible location contrary to LP Policy CF5 and the NPPF.

Housing Mix / Size

7.14 LP Policy H3 requires all new residential development to provide for a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs, based on evidence from the SMHA (Strategic Housing Market Assessment). As well as providing a mix of housing that contributes positively to the promotion of a sustainable and inclusive community taking into account the characteristics of the existing housing stock in the surrounding locality.

7.15 The scheme house types meet with NDSS (National Described Space Standards). Although, the scheme does not appear to propose any specialist housing accommodation and it is unclear how well it would score against accessibility standards as set out in the Optional Requirement M4 (2) of Part M of the Building Regulations. In respect of housing mix, it would be expected that there would be a higher proportion of 1 and 2-bedroom properties and a lower percentage of 4 and 5+ bedroom properties than is proposed when comparing the existing stock as identified in the Ward Census data with the recommended levels from the SHMA.

7.16 The SHMA, however, has recognised that a flexible approach is required to take account of viability issues and local provision. Clearly, there is a mismatch between need and aspiration in relation to the requirement for larger properties has also been acknowledged by the SMHA. In these respects, the scheme does not present an inclusive and balanced housing mix, which is not supported by scheme viability. Nor does the proposal have regard to the characteristics of the existing housing stock with respect to the provision of the large scale properties.

7.17 As a consequence, the scheme would be contrary to LP Policy H3 and the NPPF.

Character and Appearance

7.18 LP Policies S1 and EQ6 seek to secure high quality design in all developments that responds positively to its environment and contributes to local distinctiveness and a sense of place by taking account of the distinct character, townscape and setting of the area. Paragraph 127 within Section 12 of the NPPF supports developments that: c) are sympathetic to local

character and history, including the surrounding built environment and landscape setting and d) establish or maintain a strong sense of place.

7.19 The design merits of the scheme are addressed below in the context of identified policies, including the Council's High Peak Design Guide, which identifies overarching principles in securing good design and the NPPF.

7.20 The County Urban Design Officer states that the site has a distinctive character and place making qualities that will be destroyed by the proposed development. She has highlighted several design aspects that give this development the character of a modern town house development, which is inappropriate in this countryside location. Long driveways, integral garages, substantial massing and significant site remodelling and landscaping are all inappropriate and intrusive in this context. In these regards, the retention of the original building would be more appropriate and less harmful to the distinctive character of this site that forms the edge of the settlement.

7.21 LP Policy EQ9 requires the protection of existing trees, and new developments to replace any trees removed at the ratio of 2:1.

7.22 The site is partially covered by a DCC TPO (Tree Preservation Order) as highlighted by the Council's Arboricultural Officer. A temporary TPO has also been served on the wider application site as is detailed above.

7.23 The site has a distinct woodland character which would be harmed by development. The extensive level changes, retaining wall, tree removal and road construction would have a significant and detrimental landscape impact at a local level, in the opinion of the County Landscape Officer. The proposal would also cause harm to the character of the lane and public footpath at the site entrance. Similarly, there are unknown site layout impacts in relation to County Highway and Council waste collection requirements as discussed in the relevant section below.

7.24 The Arboricultural Officer comments that insufficient information has been provided, including regarding root protection schemes. Additional concerns regard apparent encroachment on rooting areas from plots and damage from level changes. It is apparent that the substantial engineering of the site will be to the detriment of the trees on site. While the applicant suggests a tree replanting scheme, the Arboricultural Officer states that this consists of too short lived and insufficiently varied species to provide adequate replacement. The County Landscape Officer has additional concerns regarding tree removal and replacement, and the impact of the retaining wall on existing trees.

7.25 Consequently, by the damage caused to existing trees and inadequate replanting, the scheme is not in accordance with LP Policy EQ9.

7.26 Being inappropriate in its setting and harmful to landscape character, the application fails to accord with LP Policies S1, S6, EQ2, EQ6, EQ9, H1, the Council's High Peak Design Guide SPD and the NPPF.

Amenity

7.27 LP Policy EQ6 'Design and Place Making' stipulates that development should achieve a satisfactory relationship to adjacent development and should not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing or other adverse impacts on local character and amenity. Similarly NPPF para 137(f) requires a high standard of amenity for existing and future users'.

7.28 The adopted SPD on 'Residential Design' states that the distance between habitable room windows should be 21m and for every change in level of 0.5m increase the increase in distance between the properties should be 1.0m. The guidance in the SPD allows for variation in distances in order to accommodate particular site circumstances.

7.29 There is substantial space, c.40m between the nearest dwellings and the proposed properties. While there is approximately a 10m level change between the sites, there is still sufficient space between the properties to avoid visual intrusion or unacceptable overbearing.

7.30 The proposal is consequently in accordance with LP Policy EQ6, the Residential Design SPD and the NPPF.

Highway Safety

7.31 LP Policy CF6 seeks to ensure that new development can be safely accessed in a sustainable manner and minimise the need to travel, particularly by unsustainable modes. NPPF para 109 advises that "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

7.32 Each dwelling is served by a drive and garage, providing adequate off-parking.

7.33 No objections have been raised by the County Highways due to the similar vehicle usage of this proposed scheme with the previously approved one.

7.34 However, Highways state that in order to comply with current design guidance, the overall shared driveway corridor should be a minimum of 7.5m width, which does not appear to be achieved. In addition, alterations are recommended to access to the development, introducing a dropped kerb rather than carriageway markings. Further consultation with the local refuse collection to agree suitability is also recommended by the Highways Authority. Swept path analysis may be necessary following this.

7.35 Alliance Waste further advise that adequate provision should be made available for a bin collection point as not to cause an obstruction on collection days. As well, there is no bin storage identified for the individual properties.

7.36 From a highways and waste collection perspective, these matters could be dealt with by suitably worded planning conditions. The proposal is consequently in accordance with LP Policy CF6 and the NPPF.

Nature Conservation

7.37 LP Policy EQ5 states that the biodiversity and geological resources of the Plan Area and its surroundings will be conserved and where possible enhanced by ensuring that development proposals will not result in significant harm to biodiversity or geodiversity interests.

7.38 DWT (Derbyshire Wildlife Trust) report advise that a license will be required for the loss of roosts for pipistrelle bats, but mitigation measures in the provided report are suitable. If bat boxes were installed as part of the Woodland Management Plan, DWT state that biodiversity net gain could be achieved to meet with LP Policy EQ5. A Construction Environmental Method Statement (CEMP) is advised as a planning condition.

7.39 DWT address information in the ecology report, which states that the site falls within the Impact Risk Zone (IRZ) for Toddbrook Reservoir Site of Special Scientific Interest (SSSI). The identified risks for this SSSI include “all planning applications (except householder)”.

7.40 On Derbyshire Wildlife Trust advice, Natural England has been consulted as to impact on the SSSI. Their response will follow on the update sheet.

Other Technical Matters

7.41 Of relevance, LP Policy EQ10 seeks to protect people and the environment from unsafe and polluted environments, requiring mitigation if necessary. Environmental Health comments are awaited. Their response will follow on the Update Sheet.

7.42 LP Policy EQ11 discusses that the Council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere, where this is viable and compatible with other policies aimed at achieving sustainable patterns of development.

7.43 The site is not in a flood risk zone. United Utilities have no objections subject to conditions regarding surface water and foul water. Additionally they require a complete soil survey, as and when land proposals have progressed to a scheme design i.e. development, and results submitted along with an application for water to eliminate the risk of contamination to the local water supply.

7.44 These matters can be secured by suitably worded planning conditions. The scheme can be considered as complying with the terms of LP Policy EQ11 and the NPPF.

8. PLANNING BALANCE & CONCLUSIONS

8.1 The scheme would meet the first criterion of the third part of LP Policy H1, which requires development to adjoin the built-up area boundary. The Council should properly consider whether the proposal would conflict with the second criterion of LP Policy H1, which resists development which would lead to a prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside.

8.2 It is concluded that the scheme would conflict with LP Policy H1, insofar as it would lead to a prominent intrusion into the countryside and have a significant adverse impact on the character of the countryside.

8.3 Given the above, it is considered that the economic benefits as a result of housing development albeit on a modest scale in this specific case do not outweigh the environmental harm that the scheme would cause.

8.4 Overall, the application proposal does not constitute a sustainable form of development in line with LP Policies S1 and S1a and NPPF paragraph 11. As well, it contravenes relevant local development plan policies and other material considerations which include the NPPF.

8.5 In accordance with NPPF paragraph 11, the application is thereby recommended for refusal.

9. RECOMMENDATIONS

A. That DELEGATED AUTHORITY be granted to the Head of Development Services and the Chair of the Development Control Committee to add additional reasons for refusal if necessary with regard to outstanding Environmental Health Officer and Natural England consultations and planning permission be REFUSED as follows:

- 1. The proposed development, in principle, would comprise a form of development which would encroach into, and erode the open countryside and be detrimental to the Settled Valley Pastures Character Area. The development of the site would cause harm to its distinct and intrinsic woodland character and form a visually prominent development which would be inappropriate in its setting. The development therefore fails to comply with Policies S1, S1a, S2, S6, H1, EQ2, EQ6 and EQ7 of the Adopted High Peak Local Plan, the Adopted High Peak Design Guide, the Adopted Residential Design Guide and the Adopted Landscape Character Assessment Supplementary Planning Document 2006 and the National Planning Policy Framework.**
- 2. By damage caused to existing mature trees, inadequate proposed replanting, and insufficient information provided regarding planting of new trees, the proposal fails to ensure tree protection on the application site. Furthermore the development fails to**

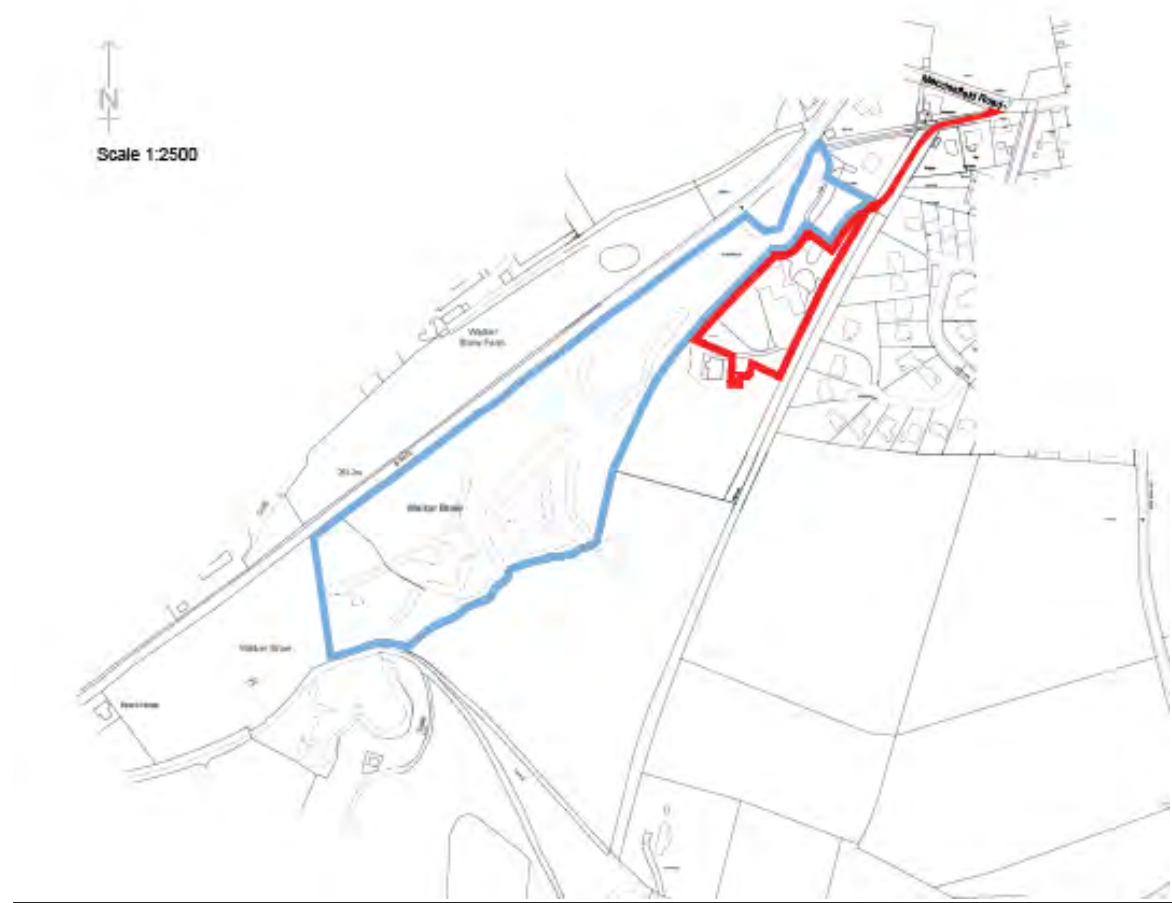
ensure that healthy, mature trees and hedgerows are retained and integrated within the proposed development. As a consequence the proposal fails to accord with Policy EQ9 of the Adopted High Peak Local Plan and the National Planning Policy Framework.

3. The definitive lawful use of the site appears as a children's home, where no definitive evidence has been provided that the existing use is no longer financially or commercially viable and that there are no other means of maintaining the facility, or an alternative facility of the same type is available or can be provided in an accessible location. As a consequence the proposal fails to accord with Policy CF5 of the Adopted High Peak Local Plan and the National Planning Policy Framework.
- B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Informative(s)

1. Prior to the determination of the application the Council advised the applicant that the principle of such development is unsustainable and did not conform with the provisions of the NPPF. It is considered that the applicant is unable to overcome such principle concerns and thus no amendments to the application were requested.

Site Plan



Appendix 2A

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

14th November 2020

Application No:	HPK/2020/0301	
Location	184 Taxal Edge Macclesfield Road Whaley Bridge SK23 7DR	
Proposal	Demolition of the existing building known as "Taxal Edge" and the detached garage building and the erection of 7 no. dwellings	
Applicant	Treville Properties Ltd	
Agent	Emery Planning Partnership	
Parish/Ward	Whaley Bridge	Date registered: 24/07/2020
If you have a question about this report please contact: Rachael Simpkin rachael.simpkin@highpeak.gov.uk 01538 395400 extension 4122		

REFERRAL

The application scheme is locally controversial.

1. SUMMARY OF RECOMMENDATION

REFUSE

The scheme has been time extended to the 16th November 2020 to allow for the consideration of the applicant's submitted Counsel Opinion and Housing Mix comments.

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site is around 0.37 hectares and comprises Taxal Edge, 184 Macclesfield Road, a large private property in spacious grounds with a detached garage. The house was formally a boarding school / hostel until 2008 when permission was granted for a change of use of boarding hostel into a single dwelling house ref. HPK/2008/0069.

2.2 The site is accessed from a private road off Macclesfield Road, Whaley Bridge. A PROW (Public Right of Way) HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary of the application site to demarcate the edge of the Whaley Bridge settlement to its northwest edge. In turn, the PROW creates a distinct channel of countryside between the Built up Area Boundary and the application site.

2.3 Planning Permission ref. HPK/2009/0689 was granted in 2010 for the conversion of Taxal Edge into 7 apartments as well as the conversion of the

classroom block and detached garage into two detached houses. In relation to the former classroom block, this lies adjacent to the site and within its ownership. It represents a detached house on elevated ground with prominent dormer windows and extensive glazing. The building works undertaken, however, appear to represent a new build rather than conversion scheme.

2.5 Following on from the 2009 consent, planning permission ref. HPK/2013/0503 was granted for the proposed conversion of Taxal Edge to form 5 Apartments as well as two semi detached houses in the area of the existing gymnasium.

2.6 The status of these consents is currently being investigated by the Council's Planning Enforcement Team and any relevance to the scheme will be referenced within the report below.

2.7 The application site lies outside the Built-up Area Boundary of Whaley Bridge as defined on the Policies Map within the Adopted Local Plan. The site therefore lies within the countryside with a landscape character type of Settled Valley Pastures.

2.8 Under the Town and Country Planning Act 1990, Town and Country Planning (Tree Preservation Orders) (England) Regulations 2020, the Council has made Tree Preservation Order 2020 No. 294 for the wider application site, which came into temporary force on the 18th September 2020. Objections or comments are due to be received by the 23rd October 2020. An update will be provided to Members via the Update Sheet.

3. DESCRIPTION OF THE PROPOSAL

3.1 The applicant seeks full planning permission for the demolition of the existing building and the detached garage building for the erection of four 4-bed semi-detached and three, 6-bed no. detached split-level dwellings of a 2.5 storey scale to be arranged in a linear formation along the rear slope of the site.

3.2 Front dormer windows, integral garages and front and back gardens are proposed for each property. Each house would be constructed of reclaimed natural grit stone brick, grey aluminium windows and a blue/grey natural slate roof.

3.3 For the existing detached house within the south of the site (the subject of a Planning Enforcement investigation), a further detached flat-roofed double garage and study is proposed beneath the existing embankment.

3.4 Access is gained from the Macclesfield Road as per the existing arrangements. Each dwelling would be served off a private driveway which culminates at the end cul-de-sac.

3.5 The scheme was placed on the agenda for the 5th October 2020 Development Control Committee. On the 1st October 2020, the applicant

submitted a Counsel's legal opinion in an attempt to address the issues of concern within the committee report as well as the three reasons for refusal within it. This opinion concluded that the Applicant benefits from a fallback position due to the lawful use of the building not being as set out in the report and the extant permissions at the site being a valid material consideration. Officers agreed to withdraw the report from the agenda to allow due consideration of the matters raised within this submission.

3.6 The applicant has also submitted further commentary in relation to the principle of development, trees and housing mix, which will be discussed within the report below.

3.7 The Council is awaiting the formal submission of tree reports and an update will be provided on the Update Sheet.

3.8 The application and details attached to it, including the plans, supporting documents, representations and consultee responses can be found on the Council's website at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=241372>

4. RELEVANT PLANNING HISTORY

HPK/0002/5081 - Additional Car Parking Provision Adjacent To Main Driveway. APPROVED 06/04/1987

HPK/2008/0069 - Change Of Use Of Taxal Edge From Boarding Hostel And Associated Ancillary Residential Accommodation To Use As Single Family Dwelling. APPROVED 28/03/2008

HPK/2009/0209 - Change Of Use From Single Dwelling To Ten Apartments Involving Internal Alterations Only. WITHDRAWN 26/06/2009.

HPK/2009/0689 - Conversion Of Single Dwelling House To Provide Seven Apartments And Conversion Of Classroom Block And Disused Garage Into Two Detached Houses. APPROVED 29/03/2010

HPK/2013/0503 - Proposed Conversion Of Taxal Edge 184 Macclesfield Road To Form 5 Apartments And To Construct 2 New Semi Detached Houses In The Area Of The Existing Gymnasium. APPROVED 25/11/2013

HPK/2015/0518 - Application for outline permission for proposed semi-detached dwellings. REFUSED 11/12/2015

5. CONSULTATIONS

Expiry:

Site notice	01/09/2020
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Press notice	N/A
Neighbours	13/08/2020

Public comments

A total of ten ‘objection’ representations have been received, summarised as follows:

- An increase to planned numbers of dwellings will affect the rural feel of the area
- Added impermeable surfaces will increase water run-off onto Macclesfield Road, and Linglongs Road, which already floods in periods of wet weather
- Potentially dangerous road access from/to Macclesfield Road
- Addition of further traffic in Whaley Bridge
- Bin collection area planned too close to existing houses
- Right of way through property used by walkers – this track has been widened without permission
- Loss of wildlife habitat
- Woodland forms part of approach to National Park
- Will intrude on and overlook the houses further down the slope, particularly due to three storey height
- Loss of light to houses on Linglongs
- 4 and 5 bedroom houses will not help locals trying to get on the housing ladder, and there is plenty of supply at this end of the market
- Impact on protected trees
- Development should be restricted to the footprint of the current building
- A covenant is in place that any new buildings erected on the land shall not exceed the height of the building as at 31 March 2016
- Previous development on this site was refused as unsustainable
- Will be very difficult for construction vehicles to turn on access road
- Land has the potential for contamination – not addressed
- Loss of trees – including those under TPOs
- Alleged HMO use of property in recent years without permission
- Part of the site is countryside
- Slope stability concerns
- Concern that works will cause land stability and threaten 21 Linglongs Avenue
- Concern about overlooking

A total of six ‘support’ representation have been received, summarised as follows:

- The junction is historically a safe one
- The proposal is more attractive than the current building
- Improving the access road (PROW) will help those with mobility issues
- Support for resurfacing of road – neighbours were consulted
- Will improve area
- This application is better than the one for 9 properties in 2013

- Treville developments elsewhere in High Peak are of good quality and support local firms

Councillor Kath Thomson

I am objecting to this development for several reasons. The main one is these houses will not be affordable housing for local people which Whaley is desperate for. We must think of the houses below the development which will be looked on. The road going up to this site is totally unacceptable for the amount of possible traffic, we will have enough extra housing with the Linglongs housing and enough extra traffic. If these houses were smaller or more affordable, even for rent local people it would maybe be more favourable. Rentable property is almost non existent in our village. Therefore I object.

Applicant

In response to tree issues raised, the applicant has stated the following points, summarised below:

- The applicant states the removal of the trees on the left of the track, heading up to Taxal Beeches, was undertaken by DCC, plus two at Taxal Beeches for safety reasons
- They state that they applied to remove the large beech in front of the school block for safety reasons – and refers to approval from the DCC Tree Preservation Officer
- The applicant also states they also had approval from DCC for the bat pole on a tree causing safety concerns
- The applicant states they aim to work closely with professionals to improve the health of trees on site, which they report as being in poor condition
- The applicant also states that the works undertaken to the track were done following unanimous agreement of all residents living along it due to safety issues

Consultees

<u>Consultee</u>	<u>Comment</u>	<u>Officer response</u>
AES Waste	No Objection	
Notes: Bin Collection point - Please make sure this area has enough room for bins so not to cause an obstruction on collection days. Potentially 14 bins there on recycling days. Also no bin storage identified at properties.		
United Utilities	Conditional Response	
Drainage In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water		

draining in the most sustainable way.

We request the following drainage conditions are attached to any subsequent approval to reflect the above approach detailed above:

Condition 1 – Surface water

No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:

(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and

(iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

The applicant can discuss any of the above with Developer Engineer, Matthew Dodd , by email at wastewaterdeveloperservices@uuplc.co.uk.

Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

Management and Maintenance of Sustainable Drainage Systems

Without effective management and maintenance, sustainable drainage systems can fail or become ineffective. As a provider of wastewater services, we believe we have a duty to advise the Local Planning Authority of this potential risk to ensure the longevity of the surface water drainage system and the service it provides to people. We also wish to minimise the risk of a sustainable drainage system having a detrimental impact on the public sewer network should the two systems interact.

We therefore recommend the Local Planning Authority include a condition in their Decision Notice regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development.

For schemes of 10 or more units and other major development, we recommend the Local Planning Authority consults with the Lead Local Flood Authority regarding the exact wording of any condition.

You may find the below a useful example:

Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

a. Arrangements for adoption by an appropriate public body or statutory undertaker, or,

management and maintenance by a resident's management company; and

b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

Please note United Utilities cannot provide comment on the management and maintenance of an asset that is owned by a third party management and maintenance company. We would not be involved in the discharge of the management and maintenance condition in these circumstances.

Water Supply

The applicant must undertake a complete soil survey, as and when land proposals have progressed to a scheme design i.e. development, and results submitted along with an application for water. This will aid in our design of future pipework and materials to eliminate the risk of contamination to the local water supply. We can readily supply water for domestic purposes, but for larger quantities for example, commercial/industrial we will need further information. The applicant should be instructed to lay their own private pipe, to United Utilities standards, back to the existing main. If this should involve passing through third party land United Utilities must receive a solicitor's letter confirming an easement, prior to connection. According to our records there are no legal easements affected by the proposed development. If the

applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for.

To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at **DeveloperServicesWater@uuplc.co.uk**

Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.

United Utilities' Property, Assets and Infrastructure

A public sewer crosses this site and we may not permit building over it. We will require an access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of Part H of the Building Regulations, for maintenance or replacement. Therefore a modification of the site layout, or a diversion of the affected public sewer may be necessary. All costs associated with sewer diversions must be borne by the applicant.

To establish if a sewer diversion is feasible, the applicant must discuss this at an early stage with our Developer Engineer at wastewaterdeveloperservices@uuplc.co.uk as a lengthy lead in period may be required if a sewer diversion proves to be acceptable. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.

Whaley Bridge Parish Council	Objection
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The Council's main concerns are over the maintenance of the footpath and access to Macclesfield Road. The access road comes out onto a blind corner and the Council is concerned about the vision splays onto Macclesfield Road. The footpath is well used by members of the public and the Council is concerned that there will be cars traveling down a well-used footpath as well as over the ongoing maintenance of this footpath. Finally, the Council thinks the area is a sensitive area from a landscape point of view and that there are too many properties proposed in the space.

Derbyshire Trust	Wildlife	Conditional Response
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The above application is accompanied by an Ecological Appraisal (NLG Ecology Ltd, 2020) and a Bat Survey Report (NLG Ecology Ltd, 2020). These provide sufficient information to enable the LPA to determine the application.

The main building supports a small number of roosting pipistrelle bats and as such a licence will be required to legalise the demolition and loss of these roosts. The mitigation and compensation measures summarised in the Bat

Survey Report are considered suitable and will be detailed in the bat licence submitted to Natural England.

Proposals include compensatory native tree and shrub planting to offset any tree removal and a Woodland Management Plan for the rest of the woodland within the land holding. We recommend that a bat box scheme could be installed within the woodland as part of this Plan. These measures should avoid a net biodiversity loss and potentially bring about a net gain. In addition, we advise that a Construction Environmental Method Statement (CEMP) is conditioned to secure precautionary measures for site clearance, sensitive lighting during construction, woodland edge protection etc.

The ecology report highlights that the application area lies within the Impact Risk Zone (IRZ) for Toddbrook Reservoir Site of Special Scientific Interest (SSSI). The identified risks for this SSSI include “all planning applications (except householder)”. As such, the LPA should consider consulting Natural England with regards to the Impact Risk Zone.

Should the LPA be minded to approve the application, we advise that the following conditions are attached:

Bat Licence and Mitigation

The demolition of the main building shall not take place until either a Bat Low Impact Class Licence or a European Protected Species licence has been obtained from Natural England. Upon receipt of a licence from Natural England, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Bat Survey Report (NLG Ecology LTD, 2020). Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence will be submitted to the LPA once granted. Confirmation will also be submitted to the LPA once all mitigation is installed, along with a copy of the results of any monitoring works.

Construction Environmental Method Statement (CEMP: Biodiversity)

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be based on recommendations in the Ecological Appraisal (NLG Ecology Ltd, 2020) and the Bat Survey Report (NLG Ecology Ltd, 2020) and include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECow) or similarly competent person.

h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Woodland Management Plan

Prior to the completion of the development, a Woodland Management Plan shall be submitted to the LPA for approval, in accordance with details in paragraph 4.1.19 of the Ecological Appraisal (NLG Ecology Ltd, 2020). The approved scheme shall be implemented in full in perpetuity.

Natural England

No Objection

19.10.20: Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

Toddbrook Reservoir Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

Protected Landscapes – Peak District National Park

The proposed development is for a site within or close to a nationally designated landscape namely Peak District National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes.

Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Peak District National Park	Awaited	Members will be updated via the Update Sheet
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DCC Urban Design Officer	Objection	
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The site lies outside the settlement boundary on the western edge of Whaley Bridge. There is a distinct change between built up character and woodland character landscape. The green belt designation falls to the western edge of this band of woodland. The site is banked above the B5470. When visiting the site, it was evident that changes are being made now with piles of rubble, stone and cut down trees, some that look like substantial Beech trees.

The lane presently consists of an unmade track and the creation of a hard surface driveway will significantly change the character and appearance of this soft edge to the current settlement boundary. Presently the wooded landscape is characteristic of the setting of the existing building, typical for a large detached Edwardian Villa of this period. The change to a linear form of three storey dwellings is a change that diminishes the landscape setting significantly.

I am concerned from public comments that the character of this access road has already been altered from a cobbled walkway with gritstone kerbs to a widened track. This loss is regrettable as it leads to a gradual erosion of the countryside character and prevents a proper assessment from being made. This alters the aesthetic value of this wooded approach, the character of the edge of settlement and the transition into countryside and the National Park.

Any increase in number of houses and vehicle activity on the access road close to Macclesfield Road needs to be considered. This may have implications on the design of the junction and subsequent loss of character of this edge of village. If it were the case that a more engineered highway solution would result, then I would consider this a significant loss of character.

The proposed houses will appear dominant and do not relate well to Beech Rise and Linglongs Road. The existing large Edwardian house is a two-storey building with hipped slate roofs and projecting bay windows. Having had several unsympathetic alterations over the years, with felt roof dormer, half-

timber additions, and external metal staircases, it appears in a rundown condition. However, the option of restoring the building is still a possibility and it may have value as a non-designated heritage asset. I would support this approach.

A new substantial detached 2 storeys dwelling with three large dormers and large windows built to a more contemporary style with reclaimed natural grit stone brick, grey aluminium windows and blue/grey natural slate roof has been established on site. This is set back quite separately and elevated to the main building. This building replaces the previous classroom block and contrasts in style to the main building. My main concern is to ensure the sensitive treatment of the overall landscape setting around both buildings as at think this new house would be better to appear less dominant in the landscape setting.

On the proposals map, the site is located adjacent to but outside of the built-up boundary of Whaley Bridge. It is in the countryside between the built-up area boundary and the Green Belt. From an Urban Design perspective, the main consideration is whether the character relates well to the existing pattern of development and surrounding land uses and of an appropriate scale.

The 1843 – 1893 Map shows Taxal Wood below extending into Walker Brow. This natural woodland wedge with footpath HP23/56/1 traditionally defines the edge of settlement. The track leads to registered common land at Taxal Moor which suggests it is an historic route to and from the village. This has a heritage value and the changes to the track should be considered as it is diminishing this historical footpath by changing its character.

The later housing area backing onto the track gives a clear hard built up edge. The large buildings within the woodland area to the west of the track are in their own parkland setting of a distinctively different character. To extend a denser pattern of development into this woodland area is not very well connected with the existing pattern of development, it is also destroying the woodland character of the site to an extent of impacting on the character of the countryside edge. The applicant may suggest that it is a logical extension of the built edge towards the Macclesfield Road, but I would dispute this as it is the landscape character that is the defining element.

I think the long front driveways and gardens will emphasis the completely changed nature of the landscape setting and increase the amount of hard surface intrusion into this woodland area. Surfaces should be kept to a minimum. Despite showing trees retained next to Brewood to create a woodland gap, it has the effect of separating the group of houses within the site with no continuity.

The Scale is substantial when considered on mass. The bulk of the dwellings appear three storeys due to the large wide dormer windows. I also find the integral garages not a very authentic response in this woodland location. Image No2 showing a high wall to rear boundary and stepped retaining walls to allow for subterranean garages exaggerate the height of the houses, particularly at plot 7 showing the existing house with the garages in front. The overall impression is more of a modern town house development. This is not the response I would expect at this woodland edge and rural edge where I

would expect a more traditional vernacular. I can see that the adjoining housing estate is of a similar grain with contemporary houses, but it is still the case that the development is not responsive to the actual site conditions and relies on significant remodelling. It is not contextual to the immediate site of the edge of settlement location. A more dispersed pattern and low-key development would be a better response.

The images show little remaining trees and a landscaped frontage with manicured lawned frontages. This will look unattractive in this location. These modern 'large Victorian villas' in terms of scale and massing, are exaggerated by the addition of the frontage terraces and garages and retaining walls which to me detracts from the overall architectural response.

The character of the original main building was that of a country residence standing in large grounds constructed around 1918. This character is typical of large detached Edwardian houses of that period found in such edge of settlement location within their own generous grounds. I would prefer to see a scheme that maintained the existing building and grounds as they are without extensive remodelling of the site or introduction of extensive hard surfaces with the existing trees and landscape layout remaining largely unaffected. The present application represents the extension of the existing residential use to the point of changing the whole character of the site. The long driveways are intrusive.

Conclusion: From an Urban Design Perspective, the current site has a significantly different character to the adjoining urban area and represents a characterful landscape transition to the adjoining countryside. It has a distinctive character and placemaking qualities that will be destroyed by the proposed development, which is overly dominant within this woodland setting and does not relate well to the adjoining suburban streets. A more low-key traditional development would be more in keeping with the few traditional houses remaining outside the settlement boundary. However, my preference would be for the retention and renovation/reuse of the main building than the proposed development of linear houses. The site required more sympathetic treatment of external works to be contextual to the current setting.

Arboricultural Officer	Objection	
<p>The site is partially covered by a DCC TPO and the trees on the site are an important landscape feature. I am aware that some tree works have been undertaken for safety reasons and these have been agreed with DCC where the trees were covered by there TPO. However there are a number of trees in site not covered by this TPO which will be affected by the proposals.</p> <p>The Arboricultural report submitted with the application relates only to safety issues with a selected number of the trees. Whilst its content is noted it does not provide the information required to assess the impact of the proposals on the trees.</p> <p>In particular:</p> <ul style="list-style-type: none"> • A detailed up to date tree survey in accordance with BS5837:2012 • A clear indication of trees to be removed and retained as part of the 		

proposals

- The root protection areas required for the trees to be retained
- Any indication of how the trees will be protected during construction

The proposed layout and arboricultural impact:

- From the plans it appears that Plots 1, 2, 5, 6, and 7 all encroach on the rooting areas of trees shown to be retained. This combined with the required level changes on site could be detrimental to the trees
- The access road near to no 7 also encroaches into the rooting area of a tree to be retained
- There is a suggested replanting scheme but this not suitable for replacing the trees that will be impacted on due to the proposals. The planting consists of largely or relatively short lived species and which are almost entirely from one family.

DCC Landscape Officer

Objection

Views of the site are contained by existing mature trees from many viewpoints, however the Public Right of Way HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary providing close views, sometime clear and sometimes through vegetation. The presence of this footpath is significant in increasing numbers of receptors and their experience of the character of the site.

Due to the well wooded nature of the site it has a distinct woodland character and contrasts with the adjacent built up character of the housing to the east. There is no development to the west and the site abuts countryside.

The proposal is to demolish the existing building, a large detached Edwardian Villa and construct 7 new dwellings. The Design and Access Statement states that the proposed dwellings would be located where the existing buildings are located. However, plots 5, 6 and 7 and garages to plot 7 are located outside the footprint of existing buildings. The proposals include extensive level changes, tree removal and road construction and as such I consider they would fundamentally change the character of the site including the lane and public footpath at the entrance and could not be considered to protect, enhance or restore the Landscape Character of the site. I consider that the proposed layout design is poor, particularly how level changes are imposed into the landscape with a multitude of driveways ramping up to houses with retaining walls, along with the turning area and passing places they provide an extremely poor frontage.

Information relating to existing trees in the application is vague, the tree survey concentrates on existing trees to the south and east of the site, and it does not seem to include trees to the north east of the site where most development is proposed. Some trees to be removed are shown on the existing Site Plan however no information is given regarding their quality or value. There are also several trees that are close to the proposed development area that would be affected by the works and at a site visit on 04/08/20 it was noted that felling had commenced to remove some of these trees. The proposed Site Plan and Landscape Works Plan show existing trees that are very close to dwellings and a new retaining wall to the north east boundary both of which are likely to have

a significant impact on existing trees.

Tree planting shown on the Landscape Works Plan is mostly of small ornamental species, I consider that there is scope in places to accommodate larger growing species and suggest that Beech are included to be in keeping with the existing character of the site.

Overall I consider the proposals to be very insensitive to the existing site features and the character of the site. The proposed level changes and retaining walls in particular will have a significant and detrimental landscape impact at a local level. I would prefer a development that retains and converts the existing building. In this way the existing trees and overall character of the site could be preserved.

DCC Highways	Conditional Response
<p>As discussed, Consent has been granted in the past for a development comprising 7no. apartments and 2no. residential units subject to minor access improvements and formal closure of a second access to Macclesfield Road.</p> <p>Whilst the improvements to the access with Macclesfield Road have not been implemented, it is suggested that traffic activity associated with a development of 8no. residential units would not be so different as to warrant a refusal on highway Grounds, subject to the previously suggested measures being satisfactorily completed prior to any occupation. However, it is recommended that the introduction of a dropped kerb across the access is explored rather than use of carriageway markings as this would be considered to provide more physical protection to emerging vehicles as well as being more durable.</p> <p>Internal layout wise, the provision of a passing opportunity is noted as is the proposed turning facility that would appear to be of adequate dimension to enable a typical supermarket delivery vehicle to turn.</p> <p>Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.</p> <p>Whilst I do not have any details printed to scale, and the General Arrangements Plan is not dimensioned, in order to comply with current design guidance, the overall shared driveway corridor should be a minimum of 7.5m width.</p> <p>There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.</p> <p>A bin collection point is demonstrated in close proximity to the site entrance, however, it is recommended that the views of the local refuse collection are sought with respect to suitability of the proposals for their purposes i.e. if they intend to make collections from within the site, suitability of the turning head for use by a Large Refuse Vehicle of 11.6m length should be demonstrated by means of swept paths.</p> <p>The proposed level off-street parking provision is considered to be acceptable.</p>	

Therefore, if you are minded to approve the proposals, it is recommended that the following conditions are included within the consent:-

1. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme of highway improvement works for the junction of the access road with Macclesfield Road (B5470) together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

2. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained free from any impediment to their designated use throughout the construction period.

3. Prior to the construction compound, the subject of Condition 2 above, being brought into use, the existing vehicular access to Macclesfield Road adjacent to Brewood shall be permanently closed with a physical barrier in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

4. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme showing the proposed shared driveway layout shall be submitted to the Local Planning Authority for written approval, including intervisible passing opportunities and a turning facility suitable for use by the largest vehicles likely to frequently visit the site, laid out and constructed in accordance with the approved designs, the area in advance of sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining shared driveway channel level.

5. No dwelling shall be occupied until space has been provided within the application site in accordance with the revised application drawings for the parking/ loading and unloading/ manoeuvring of residents/ visitors/ service and delivery vehicles to suitably serve that dwelling, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

6. There shall be no gates or other barriers within 15m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

7. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and

approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.

8. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed shared driveway have been submitted to and approved by the Local Planning Authority. The driveway shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

In addition, the following Advisory Notes may be included for the information of the applicant:-

a. The Highway Authority recommends that the first 10m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner

b. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

c. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

d. The applicant is advised that to discharge Condition 8 that the Local Planning Authority requires a copy of a completed Agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

e. The application site is affected by Public Rights of Way (Footpath numbers 56 and 95 Whaley Bridge on the Derbyshire Definitive Map). The route of these must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Advice regarding the temporary diversion of such routes may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01529 580000 and ask for the Rights of Way Officer).

f. Car parking spaces should measure 2.4m x 5.5m (2.4m x 6.5m where located in front of garage doors) with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc., and adequate space behind each space for manoeuvring.

HPBC Health	Environmental	No objections
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28.09.20: The Environmental Health Department has no objection to the proposed development subject to the conditions set out below being applied to any permission granted.

The construction/demolition stage of the development could lead to an increase of noise and dust etc. experienced at sensitive premises and subsequent loss of amenity, for this reason conditions 1 to 7 are suggested.

The proposed end use of the development is particularly sensitive to the presence of land contamination, for this reason the following conditions 8 is recommended.

1. CDD01 - CONSTRUCTION AND DEMOLITION – DUST
2. CDD02 - CONSTRUCTION & DEMOLITION: WASTE DISPOSAL
3. NSD12 - BEST PRACTICAL MEANS
4. NSD08 - PILING
5. NS02A - CONSTRUCTION & DEMOLITION WORKS: TIME OF OPERATIONS
6. CLD11 - ASBESTOS: REQUEST FOR INFO
7. CDD14 - ON SITE RADIO
8. CL03 CONTAMINATED LAND

6. PLANNING POLICIES RELEVANT TO THE DECISION

High Peak Local Plan Adopted April 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S3 Strategic Housing Development
- S6 Central Sub-area Strategy
- EQ1 Climate Change
- EQ5 Biodiversity
- EQ6 Design and Place Making
- EQ7 Built and Historic Environment
- EQ8 Green Infrastructure
- EQ9 Trees, Woodlands and Hedgerows
- EQ10 Pollution Control and Unstable Land
- EQ11 Flood Risk Management
- H1 Location of Housing Development
- H3 New Housing Development
- H4 Affordable Housing

- H5 Rural Exception Sites
- CF3 Local Infrastructure Provision
- CF5 Provision and Retention of Local Community Services and Facilities
- CF6 Accessibility and Transport
- CF7 Planning Obligations and Community Infrastructure Levy

Supplementary Planning Documents (SPD)

- High Peak Design Guide SPD (2018)
- Landscape Character SPG (2006)
- Residential Design Guide SPD (2005)

National Planning Policy Framework (NPPF) 2018

National Planning Practice Guidance (NPPG)

7. POLICY AND MATERIAL CONSIDERATIONS

Planning Policy Context

7.1 The determination of a planning application should be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan currently consists of the Adopted High Peak Local Plan 2016.

7.3 The NPPF (National Planning Policy Framework) as revised is considered to be a mandatory material consideration in decision making. The applicable contents of the NPPF will be referenced within the relevant sections of the officer report as detailed below.

7.4 As before achieving sustainable development sits at the heart of the NPPF as referred to within paragraphs 10 and 11. This requires the consideration of three overarching and mutually dependant objectives being: economic, social and environmental matters where they are to be applied to local circumstances of character, need and opportunity as follows:

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of the present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well being; and,*
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making the effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

7.5 LP (Local Plan) Policy S1a establishes a presumption in favour of sustainable development as contained within NPPF paragraph 11. It requires decision makers to apply a presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay or where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless:-

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.6 The Council can currently demonstrate 5.37 years supply of housing land (as at December 2019), and the Council has passed the Government’s Housing Delivery Test in both results published to date achieving 152% delivery in the 2019 measurement published in February 2020. Accordingly, for decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay within the context of NPPF paragraph 11.

Principle of Development

7.7 The application site lies outside the Built-up Area Boundary of Whaley Bridge as defined on the Policies Map within the Adopted LP (Local Plan). The site therefore lies within the countryside with a landscape character type of Settled Valley Pastures.

7.8 LP Policy S2 ‘Settlement Hierarchy’ herein applies. It states that development will be directed towards the most sustainable locations in accordance with the following settlement hierarchy: Market Towns, Larger Villages and Smaller Villages. In accordance with the settlement hierarchy, development here will be strictly limited to that which has an essential need to be located in the countryside or comprises affordable housing in accordance with LP Policies EQ3 and H5.

7.9 LP Policy S2 also refers to 'Other Rural Areas'. It says that in all other areas outside the settlement boundary of settlements, including those villages, hamlets and isolated groups of buildings in the Green Belt and the countryside, which do not have a settlement boundary, development will be strictly controlled in accordance with LP Policies EQ3 (Rural Development) and H5 (Rural Exception Sites). LP Policy EQ3 identifies those circumstances where new residential development will be permitted and includes development which would meet with LP Policy H1.

7.10 LP Policy S3 'Strategic Housing Development' sets out that provision will be made for at least 7,000 dwellings over the plan period (2011-2031) at an overall average annual development rate of 350 dwellings. It goes on to say that sufficient land will be identified to accommodate up to 3,549 additional dwellings on new sites. The policy makes it clear that this will be met from large sites allocated in policy H2 and from small sites which accord with policy H1. Allocations account for 623-729 dwellings with the remainder (a total of 400 dwellings) to be met on small sites at for the Central Area and the villages within the Central Area. Accordingly, given the scale of development, and that this site is considered to be a small scale development in the context of the Whaley Bridge settlement, the development is considered acceptable under LP Policy S3, subject to compliance with LP Policy H1.

7.11 As the application site is outside any defined settlement boundary, LP Policy H1 is relevant to the proposal. It states that the Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other LP policies, provided that four criteria are met, which are:

- 1) the development would adjoin the built up area boundary and would broadly be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and*
- 2) it would not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside, and,*
- 3) it would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities, and,*
- 4) the local and strategic infrastructure would be able to meet the additional requirements arising from the development of this scale.*

7.12 As highlighted above, a PROW (Public Right of Way) HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary of the application site to clearly demarcate the edge of the Whaley Bridge settlement to its northwest edge. In turn, the PROW and its associated land create a distinct c.12.0m wide channel of countryside between the Built up Area Boundary and the application site. Accordingly, the application site cannot adjoin the built up area boundary to the northwest of the Whaley Bridge Settlement and categorically fails the first element of the H1 LP Policy test as set out above. This matter represents a correction of the earlier published 5th October DC Committee officer report.

7.13 For completeness, it will also be necessary to consider whether the site complies with the remaining criteria of LP H1 as set out above as well as taking into account other relevant LP policies. These aspects of the development scheme will be discussed in further detail within the relevant sections below.

Housing Mix / Size

7.14 LP Policy H3 requires all new residential development to provide for a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs, based on evidence from the SMHA (Strategic Housing Market Assessment). As well as providing a mix of housing that contributes positively to the promotion of a sustainable and inclusive community taking into account the characteristics of the existing housing stock in the surrounding locality.

7.15 In line with the NPPF, the site does not constitute a major development and is not located in a designated rural area to trigger the requirement for any affordable housing provision.

7.16 The scheme house types appear to meet with NDSS (National Described Space Standards), although, no specialist housing accommodation appears to have been provided for. Neither has it been demonstrated how well the units would score against accessibility standards as set out in the Optional Requirement M4 (2) of Part M of the Building Regulations to raise scheme concerns in these regards.

7.16 In respect of housing mix, it would be expected that there would be a higher proportion of 1 and 2-bedroom properties and a lower percentage of 4 and 5+ bedroom properties than is proposed when comparing the existing stock as identified in the Ward Census data with the recommended levels from the SHMA. The applicant appears to rely on their statement of Housing Mix submitted sometime ago for the Linglongs Road site, which lies in close proximity to the application site (ref. HPK/2017/0247). Their assumption being that it was accepted by the Council and therefore its conclusions would be equally relevant to the application site. However, mix could not be controlled by the aforementioned reserved matters consent as the relevant condition had not been applied to the outline consent as explained within the associated officer report.

7.17 Of note, ref. HPK/2009/0689 consent provided for seven, 2-bedroom apartments – three of which would be accessible from the ground floor, the provision of a single 2-bedroom and 3-bedroom detached dwelling as well as the conversion of the former classroom into a 5-bedroom property at the Taxal Edge site to accord with the up-to-date LP Policy H3 in these regards.

7.18 The SHMA has recognised that a flexible approach is required to take account of viability issues and local provision. Clearly, there is a mismatch between need and aspiration in relation to the requirement for larger properties has also been acknowledged by the SMHA. In these respects, the scheme does not present an inclusive and balanced housing mix, which is not

supported by scheme viability. Nor does the proposal have regard to the characteristics of the existing housing stock with respect to the provision of the large scale 4 and 6-bedroom properties, which will be discussed further within the relevant sections below.

7.19 As a consequence, the scheme would be contrary to LP Policy H3 and the NPPF.

Character and Appearance

7.20 The design and appearance of any new development in the countryside are key to protecting the High Peak character, including the setting of the National Park. Policy EQ2 Landscape Character states that new development should be sympathetic to landscape character and protect or enhance the character, appearance and local distinctiveness of the landscape as guided by the Landscape Character SPD. EQ9 Trees, woodlands and hedgerows requires new development to provide landscaping where appropriate.

7.21 LP Policy EQ6 Design and Place Making emphasises the need for high quality, well designed development that reflects landscape character. The design merits of the scheme are addressed below in the context of identified policies, including the Council's High Peak Design Guide, which identifies overarching principles in securing good design as well as the NPPF.

7.22 The relevant elements of LP Policy H1, require: (1) the development would adjoin the built up area boundary and would broadly be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and (2) it would not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside.

7.23 The site lies outside the settlement boundary on the western edge of Whaley Bridge. There is a distinct change between built up character and woodland character landscape. The green belt designation falls to the western edge of this band of woodland. The site is banked above the B5470. Presently the wooded landscape is characteristic of the setting of the existing building, typical for a large detached Edwardian Villa of this period. The access lane presently consists of an unmade track.

7.24 The DCC Urban Design Officer confirms that the scheme should relate well both to the existing pattern of development, surrounding land uses and be of an appropriate scale. The track leading to the registered common land at Taxal Moor suggests it is an historic route to and from the village requiring consideration within the scheme. She also considers that the later housing area backing onto the track gives a clear hard built up edge, whereas, the large buildings within the woodland area to the west of the track are within their own parkland setting and are of a distinctively different character.

7.25 The Urban Design Officer also considers that to extend a denser pattern of development into this woodland area would not be well connected with the existing pattern of development, but would also destroy the woodland character of the site to an extent of impacting on the character of the

countryside edge. Whilst the applicant claims that this is a logical extension of the built edge towards the Macclesfield Road, this viewpoint is strongly disputed as the landscape character is confirmed as the defining element of an assessment.

7.26 The DCC Landscape Architect discusses that the views of the site are contained by existing mature trees from many viewpoints. However the Public Right of Way HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary to provide close range views, sometimes clear and sometimes through vegetation. The presence of this footpath therefore is considered as significant in increasing the numbers of receptors and their experience of the character of the application site.

7.27 The scheme proposal is to demolish the existing building, a large detached Edwardian Villa and construct 7 new dwellings. The Design and Access Statement considers that the proposed dwellings would be located where the existing buildings are located. However, plots 5, 6 and 7 and garages to plot 7 are located outside the footprint of existing buildings. The proposals include extensive level changes, tree removal and road construction. As such, it is considered that they would fundamentally change the character of the site including the lane and public footpath at the entrance.

7.28 In these regards, the DCC Landscape Architect reports that the scheme could not be considered to protect, enhance or restore the Landscape Character of the site. It is further considered that the proposed layout design is poor, particularly how level changes are imposed into the landscape with a multitude of driveways ramping up to houses with retaining walls, along with the turning area and passing places they provide an extremely poor frontage. Furthermore, the change to a linear form of three storey dwellings is a change that is considered to diminish the landscape setting significantly. The creation of a hard surface driveway would also significantly change the character and appearance of this soft edge to the current settlement boundary.

7.29 The DCC Urban Design Officer discusses that the proposed houses would appear dominant and do not relate well to Beech Rise and Linglongs Road. The existing large Edwardian house is a two-storey building with hipped slate roofs and projecting bay windows. The character of the original main building was that of a country residence standing in large grounds constructed around 1918. This character is typical of large detached Edwardian houses of that period found in such edge of settlement location within their own generous grounds. The restoration of the building with a potential value as a non-designated heritage asset despite the unsympathetic alterations is viewed as the preferred development approach. She would prefer to see a scheme that maintained the existing building and grounds as they are without extensive remodelling of the site or introduction of extensive hard surfaces with the existing trees and landscape layout remaining largely unaffected. The present application represents the extension of the existing residential use to the point of changing the whole character of the site.

7.30 Furthermore, the substantial detached 2 storeys dwelling with three large dormers and large windows built to a more contemporary style which appears

dominant in the landscape setting is noted. However, this is subject to a Planning Enforcement Investigation. It is considered that the long front driveways and gardens would emphasise the completely changed nature of the landscape setting and increase the amount of hard surface intrusion into this woodland area. The retained trees next to Brewood intended to create a woodland gap would have the effect of separating the group of houses within the site with no continuity.

7.31 The DCC Urban Design Officer also considers that the scale of the scheme is substantial when considered on mass. The bulk of the dwellings appear as three storeys due to the large wide dormer windows. It is also found that the integral garages are not an authentic response in this woodland location. The high wall rear boundaries and stepped retaining walls to allow for subterranean garages exaggerate the height of the houses. The overall impression is more of a modern town house development relying on significant remodelling and therefore is not responsive to the actual site conditions. The scheme cannot be considered as contextual to the immediate site of the edge of settlement location. Furthermore, the scheme shows few remaining trees and a manicured lawned frontages, which would appear unattractive in this location. These modern 'large Victorian villas' in terms of scale and massing are exaggerated by the addition of the frontage terraces and garages and retaining walls, which all seek to detract from the overall architectural response.

7.32 The character of the edge of settlement and the transition into countryside and the National Park together with Natural England's comments has triggered a consultation with the Peak District National Park Authority and Members will be updated on the update sheet.

7.33 From a landscape character perspective, the proposal would be insensitive to the existing site features and the character of the site. The proposed level changes and retaining walls in particular would have a significant and detrimental landscape impact at a local level. The preference would be a development that retains and converts the existing building. In this way the existing trees and overall character of the site could be preserved.

7.34 From an Urban Design Perspective, the current site has a significantly different character to the adjoining urban area and represents a characterful landscape transition to the adjoining countryside. It has a distinctive character and placemaking qualities that would be destroyed by the proposed development, which is overly dominant within this woodland setting and does not relate well to the adjoining suburban streets. A more low-key traditional development would be more in keeping with the few traditional houses remaining outside the settlement boundary. The preference would be for the retention and renovation/reuse of the main building than the proposed development of linear houses. The site required more sympathetic treatment of external works to be contextual to the current setting.

7.35 In these circumstances, the scheme is clearly contrary to LP Policy H1 in that it does not adjoin the development boundary, neither is it well related with the existing pattern of development and surrounding land uses nor is it of an appropriate scale for the settlement. There would be further conflict with the

specific landscape, heritage and design policies of wider Local Plan and associated Supplementary Planning Documents in these regards.

7.36 Turning to the fallback position regarding the 2009 and 2013 permissions. Officers have requested the applicant to evidence in detail the works undertaken to implement either of these schemes including the classroom 'conversion'. Notwithstanding this, however, even if a robust fallback position can be established for the 2009 and 2013 schemes (i.e. conversion of existing buildings without significant engineering works can be demonstrated), it is clear that the proposed scheme is fundamentally different. As such it should be assessed on its own merits, including against the provisions of Policy H1. Accordingly it is not considered that the fallback position carries any weight as a material consideration in the planning balance or sets any precedent to overcome such LP Policy H1 objections.

7.37 Accordingly, the proposal is contrary to LP Policies S1, S6, EQ2, EQ6, EQ9, H1, the Council's High Peak Design Guide and Landscape Character SPDs and the NPPF.

Trees

7.38 The site is partially covered by a DCC TPO (Tree Preservation Order) as highlighted by the Council's Arboricultural Officer. A temporary TPO has also been served on the wider application site as is detailed above.

7.39 The Arboricultural Officer comments that insufficient information has been provided, including in respect of root protection schemes. Additional concerns regard apparent encroachment on rooting areas from plots and damage from level changes. It is apparent that the substantial engineering of the site will be to the detriment of the trees on site. While the applicant suggests a tree replanting scheme, the Arboricultural Officer states that this consists of too short lived and insufficiently varied species to provide adequate replacement.

7.40 The County Landscape Officer has additional concerns regarding tree removal / replacement and the impact of the retaining wall on existing trees. He considers that the submitted tree survey concentrates on existing trees to the south and east of the site, but does not include trees to the northeast of the site where most development is proposed. In addition, the tree planting as shown on the Landscape Works Plan is mostly of small ornamental species contrary to the existing character of the site. Consequently, by the damage caused to existing trees and inadequate replanting, the scheme is not in accordance with LP Policy EQ9.

7.41 The applicant has submitted draft tree reports to the Council's Arboricultural Officer on the 30th October 2020. The formal submission of the document to the Local Planning Authority, however, is awaited and will require consultation with the DCC Landscape Architect. The applicant has been offered a time extension to the next DC Committee to allow the consideration of the awaited reports, but has declined.

7.42 Accordingly, the proposal is contrary to LP Policy EQ9 and the NPPF.

Amenity

7.43 LP Policy EQ6 also stipulates that development should achieve a satisfactory relationship to adjacent development and should not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing or other adverse impacts on local character and amenity. Similarly NPPF para 137(f) requires a high standard of amenity for existing and future users'. The adopted SPD on 'Residential Design' states that the distance between habitable room windows should be 21m and for every change in level of 0.5m increase the increase in distance between the properties should be 1.0m. The guidance in the SPD allows for variation in distances in order to accommodate particular site circumstances.

7.44 There is substantial space, c.40m between the nearest dwellings and the proposed properties. While there is approximately a 10m level change between the sites, there is still sufficient space between the properties to avoid visual intrusion or unacceptable overbearing impacts in respect of neighbouring development.

7.45 The site plan and more limited section information both serve to demonstrate that an inadequate and limited rear amenity space would be provided for each family dwelling house. Resultant overbearing and shading impacts would be exacerbated by the proposed retaining walls with tree embankment above.

7.46 Accordingly, the proposal is contrary to LP Policy EQ6, the Residential Design SPD and the NPPF.

Highway Safety

7.47 LP Policy CF6 seeks to ensure that new development can be safely accessed in a sustainable manner and minimise the need to travel, particularly by unsustainable modes. Paragraph 109 of the NPPF advises that "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

7.48 The scheme is regarded as having reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities. No objections have been raised by County Highways due to the similar vehicle usage of this proposed scheme with the previously approved one. Notwithstanding the debate on the site's fallback position, it is unlikely that a reason for reason would be sustained on the grounds of the proposed intensification of the site on highway grounds.

7.49 County Highways require a shared driveway corridor with a minimum of 7.5m width supported by a swept path analysis to allow for local refuse collection. Alliance Waste further advice that bin collection points and bin storage for individual properties should also be identified. Furthermore, a dropped kerb arrangement rather than carriageway markings at the access point off Macclesfield Road is also recommended.

7.50 Each dwelling is served by a drive and garage, providing for adequate off-street parking requirements and these should be suitably secured for such purposes by condition.

7.51 From a highways and waste collection perspective, these matters could be dealt with by suitably worded planning conditions should Members be minded to approve the scheme. Accordingly, the proposal is in accordance with LP Policy CF6 and the NPPF and with the relevant aspects of LP Policy H1.

Nature Conservation

7.52 LP Policy EQ5 states that the biodiversity and geological resources of the Plan Area and its surroundings will be conserved and where possible enhanced by ensuring that development proposals will not result in significant harm to biodiversity or geodiversity interests.

7.53 A Phase 1 Habitat Report (April 2020) and Bat Survey Report (August 2020) form part of the scheme submission. Of relevance, DWT (Derbyshire Wildlife Trust) advises that a license will be required for the loss of roosts for pipistrelle bats, but mitigation measures in the provided report are suitable. If bat boxes were installed as part of the Woodland Management Plan, DWT state that biodiversity net gain could be achieved to meet with LP Policy EQ5. A Construction Environmental Method Statement (CEMP) is also advised as a further planning condition.

7.54 The site falls within the Impact Risk Zone (IRZ) for Toddbrook Reservoir SSSI (Site of Special Scientific Interest). The identified risks for this SSSI include “all planning applications (except householder)” necessitating a consultation with Natural England. Natural England considers that the proposed development will not damage or destroy the interest features for which the Toddbrook Reservoir SSSI has been notified and therefore has no objections to the scheme.

7.55 Consequently the proposal is in accordance with LP Policy EQ5 and the NPPF.

Other Technical Matters

7.56 Of relevance, LP Policy EQ10 seeks to protect people and the environment from unsafe and polluted environments, requiring mitigation if necessary. The Council’s Environmental Health consultation comments confirm no objections to the scheme subject to the control of construction and demolition to protect neighbour amenity at nearby noise sensitive properties at the development stage and also the submission of a contamination land risk assessment given the proposed residential end use of the site being sensitive to the presence of land contamination.

7.57 LP Policy EQ11 discusses that the Council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere, where this is viable and compatible with other policies aimed at achieving sustainable patterns of development.

The site is not in a flood risk zone. United Utilities have no objections subject to conditions requiring a surface water / foul water drainage scheme and a soil survey at a more detailed design stage. These matters could be readily controlled via suitably worded conditions should Members be minded to approve the scheme.

7.58 In these regards, the local and strategic infrastructure would be able to meet the additional requirements arising from the development of this scale to accord with the relevant aspects of LP Policy H1. Furthermore, the scheme would achieve compliance with the terms of LP Policies EQ10 and EQ11 and the NPPF regarding environmental and local flood risk matters.

8. PLANNING BALANCE & CONCLUSIONS

8.1 The determination of a planning application should be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

8.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan currently consists of the Adopted High Peak Local Plan 2016.

8.3 As the application site is outside any defined settlement boundary, LP Policy H1 is relevant to the proposal. It states that the Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other LP policies, provided that four criteria are met, which are:

- 1) the development would adjoin the built up area boundary and would broadly be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and*
- 2) it would not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside, and,*
- 3) it would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities, and,*
- 4) the local and strategic infrastructure would be able to meet the additional requirements arising from the development of this scale.*

8.4 The scheme is clearly contrary to LP Policy H1 in that it does not adjoin the development boundary, neither is it well related with the existing pattern of development and surrounding land uses nor is it of an appropriate scale for the settlement. Even if a robust fallback position can be established for the 2009 and 2013 schemes it is clear that the proposed scheme is fundamentally different. As such it should be assessed on its own merits, including against the provisions of Policy H1. Accordingly it is not considered that the fallback

position carries any weight as a material consideration in the planning balance or sets any precedent to overcome such LP Policy H1 objections.

8.5 By damage caused to existing mature trees, inadequate proposed replanting, and insufficient information provided regarding planting of new trees, the proposal fails to ensure tree protection on the application site. Furthermore the development fails to ensure that healthy, mature trees and hedgerows are retained and integrated within the proposed development.

8.6 The overall scheme would not provide for an appropriate range and mix of housing types that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs based on evidence from the Strategic Housing Market Assessment or successor documents.

8.7 The proposal would not provide for an appropriate level of outdoor amenity space to ensure that the scheme secures a good standard of amenity for future occupants.

8.8 Given the above, it is considered that the economic benefits as a result of housing development albeit on a modest scale in this specific case do not outweigh the significant environmental harm that the scheme would cause.

8.9 Overall, the scheme proposal does not constitute a sustainable form of development in line with LP Policies S1 and S1a and NPPF paragraph 11. As well, it contravenes relevant local development plan policies and other material considerations which include the NPPF.

8.10 In accordance with NPPF paragraph 11, the application is thereby recommended for refusal.

9. RECOMMENDATIONS

A. That DELEGATED AUTHORITY be granted to the Head of Development Services and the Chair of the Development Control Committee to add additional reasons for refusal if necessary with regard to outstanding Peak District National Park consultations and planning permission be REFUSED as follows:

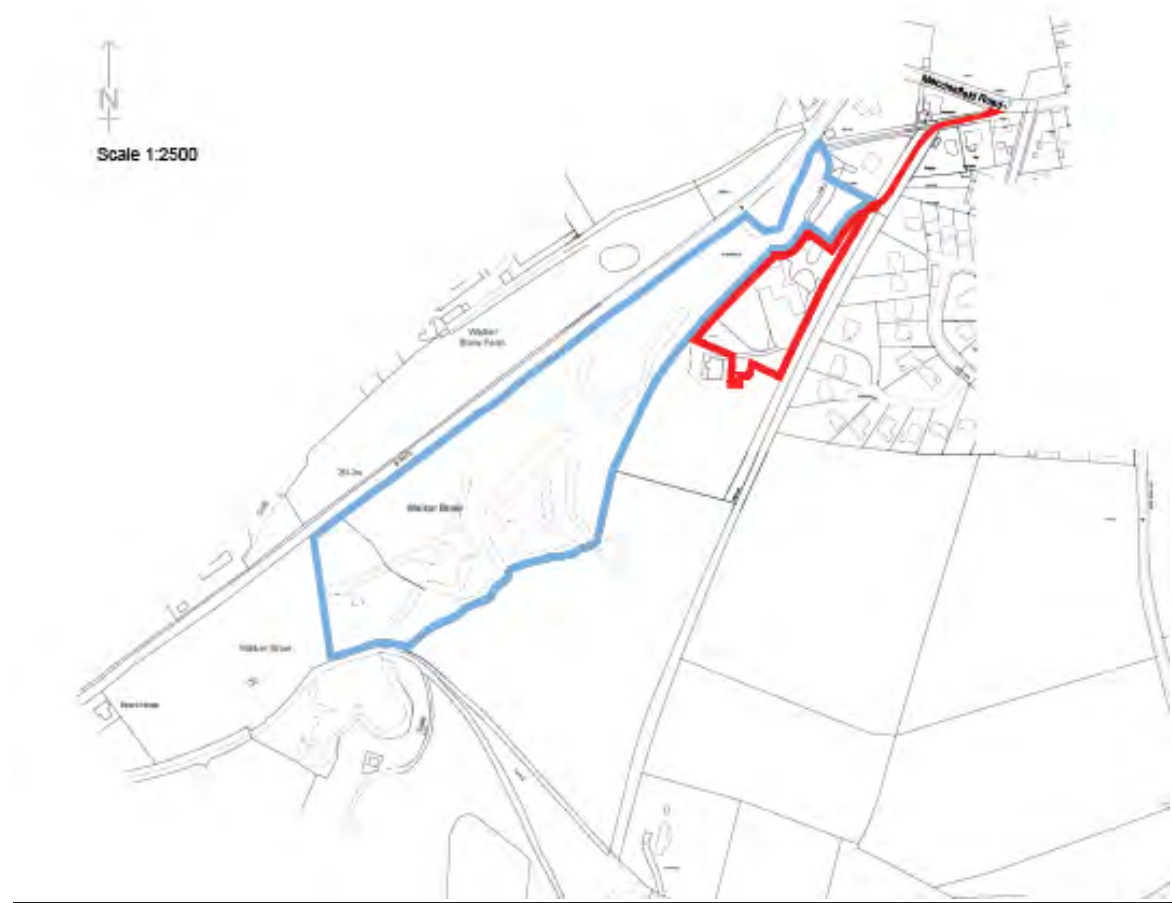
- 1. The proposed development, in principle, would comprise a form of development which would encroach into, and erode the open countryside and be detrimental to the Settled Valley Pastures Character Area. The development of the site would cause harm to its distinct and intrinsic woodland character and form a visually prominent development which would be inappropriate in its setting. The development therefore fails to comply with Policies S1, S1a, S2, S6, H1, EQ2, EQ6, EQ7 and EQ9 of the Adopted High Peak Local Plan, the Adopted High Peak Design Guide, the Adopted Residential Design Guide and the Adopted Landscape Character Assessment Supplementary Planning Document 2006 and the National Planning Policy Framework.**

2. By damage caused to existing mature trees, inadequate proposed replanting, and insufficient information provided regarding planting of new trees, the proposal fails to ensure tree protection on the application site. Furthermore the development fails to ensure that healthy, mature trees and hedgerows are retained and integrated within the proposed development. As a consequence the proposal fails to accord with Policy EQ9 of the Adopted High Peak Local Plan and the National Planning Policy Framework.
 3. The overall scheme would not provide for an appropriate range and mix of housing types that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs based on evidence from the Strategic Housing Market Assessment or successor documents. The development therefore fails to comply with Policies S1, S1a, S6, H1, H3 and EQ6 of the Adopted High Peak Local Plan, and the National Planning Policy Framework.
 4. The proposal would not provide for an appropriate level of outdoor amenity space to ensure that the scheme secures a good standard of amenity for future occupants is reflected within Adopted High Peak Local Plan policy EQ6 'Design and Place Making', the Council's 'Residential Design Guide' SPD and the National Planning Policy Framework.
- B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

Informative(s)

1. Prior to the determination of the application the Council advised the applicant that the principle of such development is unsustainable and did not conform with the provisions of the NPPF. It is considered that the applicant is unable to overcome such principle concerns and thus no amendments to the application were requested.

Site Plan



Appendix 2B

High Peak Borough Council



DEVELOPMENT CONTROL COMMITTEE AGENDA

Date: Monday, 9 November 2020

Time: 1.30 pm

Venue: Virtual Meeting

You can view the agenda online by using a smart phone camera and scanning the code below:



30 October 2020

PART 1

4. Update Sheet (**Pages 3 - 12**)

SIMON BAKER **CHIEF EXECUTIVE**

Membership of Development Control Committee

Councillor R McKeown (Chair)
Councillor A Barrow
Councillor C Farrell
Councillor G Oakley
Councillor P Roberts
Councillor J Todd

Councillor D Lomax (Vice-Chair)
Councillor L Dowson
Councillor I Huddleston
Councillor J Perkins
Councillor E Thrane
Councillor S Young

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9th NOVEMBER 2020

HPBC DEVELOPMENT CONTROL COMMITTEE

UPDATE SHEET

HPK/2020/0301 - Demolition of the existing building known as “Taxal Edge” and the detached garage building and the erection of 7 no. dwellings at 184 Taxal Edge, Macclesfield Road, Whaley Bridge

In support of this application, the applicant has submitted an Arboriculture Impact Assessment, an Arboriculture Method Statement and Tree Protection Plan, a landscaping plan and site sections plan.

HPBC Arboricultural Officer

Background

The site is partially covered by a DCC TPO 175 made in 1980. However, to ensure all the trees on the site were protected a temporary HPBC area order TPO was made. Whether the new TPO will be confirmed, modified or allowed to lapse will be decided based on the outcome of this application. On 3/11/2020 a full BS 5837:2012 tree report has been provided and the proposals have been assessed in the light of this and the site visit of 15/10/2020

Arboricultural impact

Plots 1 and 2

The location of Plots 1 and 2 have the most significant impact on trees, to accommodate these plots 4 trees, T14 to T17, will need to be removed due to their close proximity to the existing structure and the proposed dwellings. On balance I agree that the sustainable retention of these trees may in any event be limited by their close proximity to built structures. However, their loss needs to be mitigated for by replacement planting.

I have concerns about the proximity of the proposed dwellings, particularly Plot 1 to the mature specimen beech T13 (tree no 2 in the tree condition survey). This tree is a high amenity mature specimen tree it is located about 13m from the proposed gable end of this structure, this means that there is a slight encroachment of the root protection area (RPA).

The root protection areas defined by BS5837:2012 are the minimum recommendation and individual circumstances should be taken into account. In this case given the age and the condition of the tree a larger off set from the tree would be warranted. In addition, the relationship between this tree and the proposed dwelling, the tree being in excess of 20m in height, here is an elevated risk potential from the tree in relation to the proposed dwelling. At present the tree is not a significant risk but by placing a residential dwelling within the fall zone of this tree to potential risk is increased.

These plots both have modest gardens areas and back on to the protected woodland there is likely to be shading issues with this garden facing the north west and both trees surrounding the house and the property itself will significantly shade the rear gardens. Whilst plots 1 and 2 can be accommodated they are not ideally positioned in relation to the existing trees so there is potential for ongoing conflict and premature tree loss. Reducing the dwellings to 1 instead of 2 in this location and giving the existing trees more space and creating more usable outdoor space which is less effected by shading would be preferable.

Plot 5

The rear garden is dominated by the sycamore T20, this tree is growing out of the wall. This tree is not ideally placed for retention if it can be retained this will be a bonus. However, any tree loss here needs mitigation within the woodland

Plot 6

Ash T12 to be felled but this has a limited life expectancy due to ash die back disease so subject to adequate and appropriate replacement planting I have no issues.

Existing house and access Road

The proposed new garage and hard surfacing access road encroaches into the rooting area of the mature specimen beech tree T27, (numbered T5 in the tree condition survey) . As with the tree near plot 1 this tree should ideally be given greater root protection area given its age and size. Also it would be prudent to design the garage / study to be outside the immediate vicinity of the tree to reduce any potential risk from this tree and therefore avoid premature removal.

Landscaping

The landscaping proposals can be divided in to 2 main parts. The amenity planting within the red edge of the development and woodland and other planting and management within the blue line area and subject to a s106 agreement. At this stage landscaping can be conditioned and the details agreed at a later date as long as the principals are agreed. The indicative landscaping shown on the plans will need to be amended to be acceptable and will need to be considered alongside a landscape and ecological management plan.

With regards to the amenity tree planting within the development some species amendment would be required and some larger specimen trees should be included to be planted at significant points within the site. Woodland planting will need to be part of the overall LEMP for the wooded area and be in addition to any other planting required by existing legal obligations for example if restocking is part of the felling license agreement. This planting and management of the woodland will need to be agreed as part of the s106 agreement

Summary

The temporary TPO is to remain in place for the time being. Although it will be subject to modification once a layout for this site has been approved. The proposals impact on 2 mature beech trees T13 and T27 the minimum required Root protection area is encroached upon and the juxtaposition of the proposed structures creates an elevated risk which will lead almost certainly to the premature removal of these mature specimens. Some amendments to the layout to improve the relationship of proposals with these existing trees would be preferable. The landscaping and ecological management and mitigation needs to be conditioned and a s106 agreed to ensure that it is implemented.

Peak District National Park – No comments received.

Applicant's representations

A further Counsel's opinion has been provided which concludes:

38. The Council's consideration of the current planning application, as set out in the Officer Report (OR), is deeply flawed. The approach to the fallback position is wrong in law and fails to take into account clear and convincing evidence that the land may be used for residential purposes. This creates a fault line running through the entire OR.

39 If Members refuse planning permission on the grounds set out in the OR, a number of things will happen:

- a. The Applicant will have a strong case for an award of costs on an appeal;
- b. Given that the starting point for the Council's assessment of the application is wrong, its evidence is likely to carry substantially reduced weight with an Inspector.

The full opinion, along with the previous one can be read on the Council's Website at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=241372>

The Applicant has also drawn attention to a letter which they submitted relating to the poor management of the former Children's Care Home which occupied the site and that the application would have the benefit of erasing the physical traces of this former use. This is not found to be a material consideration in the determination of the application as it does not relate to genuine matters of land-use planning.

Officer comments:

The Council's Tree Officer, whilst raising some concerns over the impact on a number of existing trees and the potential shading from those to trees to be retained, acknowledges that the layout of plots 1 and 2 can be accommodated within the site. Although concerns remain, the Tree Officer advises that conditions can be imposed to address the points, including the need for a revised landscaping scheme. In light of this, it is recommended that reason for refusal 2 be deleted.

The Council's opinion raises the following key points:

1. The word "adjoin", is commonly held to describe something that is "very near, next to, or touching". Given that the application site is separated from the boundary of Whaley Bridge only by a footpath, it is undoubtedly the case that it is 'very near' to that boundary.

Officer Response: This point was considered at the Tunstead Milton Appeal where The Inspector stated that:

The third part of Policy H1 of the LP establishes the circumstances where the Council will give consideration to approving housing development outside of the built up area boundaries. The first criterion is that 'the development would adjoin the built up area boundary and be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement'.

The appellant argued that notwithstanding the fact that the appeal site is separated from the settlement boundary by a road it could still adjoin the settlement boundary. Whether or not this is the correct interpretation the criterion also requires compliance with the remaining part of the criterion.

However the Inspector stated that "For the reasons given I find that the proposal would not be well related to the existing pattern of development and it would be inconsistent with, and poorly related to, the surrounding land uses to the west, east and south which are primarily agricultural and open countryside. It would also introduce a land use which is largely uncharacteristic along this frontage and for these reasons would be contrary to the first criterion of part three of Policy H1 of the LP.

Officers similarly conclude at paragraph 7.35 that the development is neither well related to the existing pattern of development and surrounding land uses nor is it of an appropriate scale.

2. It is a trite principle of planning law that there should be consistency in decision taking in order to secure public confidence in the development management system. The previous Officer Report dated 5th October 2020 was that the scheme would satisfy the criterion relating to the site adjoining the built up area boundary.

Officer Response: The latest report acknowledges that this is an error in the previous report and has been corrected. Notwithstanding this the previous report was withdrawn from the agenda. As such no “decision” was made on it. As a result there is no inconsistency in decision making.

3. Read sensibly, policy H3 cannot apply to all residential proposals of whatever size. The 10 threshold for affordable housing should apply to housing mix under the policy. Counsel argues that the Council’s approach in the Report would entitle it to refuse planning permission for 1 – 2 house schemes on the basis they did not reflect the housing mix identified in the Strategic Housing Market Assessment

Officer Response: Policy H3 clearly states “The Council will require all new residential development to address the housing needs of local people” (my emphasis). The threshold of 10 units for affordable housing is set in policy H4. Clearly a scheme of 1 or 2 dwellings cannot provide a mix of house types which is entirely reflective of the SHMA which covers 1, 2 3 4 and 5 bed houses. However, this is a scheme for 7 dwellings and does provide the opportunity to reflect that desired mix. Whilst the site would not attract any affordable housing requirements in accordance with Policy H4, Policy H3 does require new development to meet the requirements of local people by, inter alia H3 b) “providing a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs, based on the evidence from the Strategic Housing Market Assessment or successor documents. In this case the development proposes four and six bedroom properties, against a requirement of just 10% of four bedroom properties identified in the SHMAA.

4. The SHMA upon which the Council has based its housing mix request dates from 2014 but is based on a housing needs survey which is now over 10 years old

Officer Response: The SHMA used up to date data and modelling but it did look at assumptions from the Government’s Survey of English Housing (2008) to help link changes in household characteristics with the housing types/sizes they are likely to require. See p145 of the SHMA. The 2006 Housing Needs Survey is also considered but this is alongside data from the 2011 Census, the 2013 Housing Register and the “Popgroup” modelling undertaken as part of the 2014 SHMA to inform the overall recommended mix. See page 151.

The SHMA also acknowledges that mix may need to vary on a site by site basis having regard to local stock and viability. The applicant has not provided any more up-to-date evidence to indicate that housing needs have changed in the area or Borough generally in the intervening period.

5. Policy EQ6 makes no express reference to private amenity space, less still any standards that must be applied. There can therefore be no breach of policy EQ6. Similarly, I have read the Residential Design SPD and cannot find any measurable standards for gardens (front or rear). There is no breach of the SPD.

Officer Response: It is acknowledged that the Council does not have a specific standards for private amenity space. However, Policy EQ6 and the NPPF require a good standard of

residential amenity to be provided in all new developments for future residents. The lack of a specific standard in policy means that it becomes a matter of officer judgement. Elsewhere in the opinion Counsel states that "There are various issues, such as design and layout, in the most recent OR which call principally for the application of planning judgement. I do not propose to offer a view on those matters since they fall outside the scope of my expertise". This matter should be considered in the same way.

6. The officer comments that a legal Opinion was submitted in relation to the fallback position but then singularly fails to address any of the points raised in that Opinion

Officer Response: Having now considered the matter carefully officers now consider that the fallback position is irrelevant to the consideration of this application and give it no weight as a material consideration. Therefore it is not necessary to consider how realistic that fallback position is given that the reasons for refusal do not seek to argue, for example, that this is an unsustainable location for people to live rather it is the impact on the character and appearance of the countryside of the dwellings proposed. Indeed, the mere granting of permission previously, whether or not that remains extant, demonstrated this point.

7. The Opinion then criticise this conclusion stating "that is the wrong test. In *Mansell v Tonbridge and Malling BC and others* (a case I cited in my September Opinion), having reviewed the legal authorities, the judge held that "*for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice.*"

Officer Response: Even accepting that a fallback position exists, as the applicant contends, officers are of the view that the conversion / redevelopment scheme of the existing buildings is not comparable to the total redevelopment now proposed.

8. Counsel argues that to discount entirely the fallback position as a material consideration in determining the Application, this is a fatal flaw. The Officer's objection to the Applicant's development rests on an assertion that it will be a prominent and harmful intrusion into the countryside. By omitting any consideration of the fallback position, the OR deprives Members of making a fair and proper comparison between what is proposed by the Application and what could be developed under the 2009 and/or 2013 planning permissions.

Officer Response: If Members were to accept that the fallback position can be legitimately implemented and is a material consideration, Officers still consider that the proposed development of a number of large detached dwellings spread out across the site will have a far more harmful and intrusive effect on the countryside than the implementation of the 2009 or 2013 permissions which related to the conversion and redevelopment of the existing buildings on site. Therefore, making the comparison, between the current scheme and the fall-back officers remain firmly of the view that the current proposal is more harmful.

9. Whilst the site is countryside in the policy designation it is not entirely countryside in a landscape sense. The majority of the site should be treated as previously developed land. National Planning Policy enjoins developers and local authorities to make "*as much use as possible of previously-developed or 'brownfield' land*"

Officer Response: It is agreed that the site is in part a brownfield site. The definition of previously developed land in the NPPF states "Land which is or was occupied by a

permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.” (My emphasis) That is clearly the case here with this large site, much of which has not been previously covered by permanent structures. The development is not confined to the previously developed parts of the site and is therefore much more intrusive into the countryside in a landscape and policy sense that the existing development on the site (or the fallback approvals)

10. It is quite impossible to know whether the officer considers the lawful use of the site to be as a children’s home (as in the October 2020 OR) or for some other use.

Officer Response: The lawful use of the site is not considered to be material to the case given that what is now proposed is complete clearance and redevelopment. The issues at the heart of the reasons for refusal relate to landscape and visual intrusion. Consideration of this issue is dependent on a consideration of the physical characteristics of the site as it stands (i.e. the impact of the existing buildings on the countryside) compared to how it would stand following implementation of the proposed scheme. The use to which those buildings could lawfully be put is of little or no relevance. This is in contrast to a situation where, for example, traffic generation, was the main issue in question whereby the lawful use would be highly relevant to the vehicle movements that could occur without any further planning approval.

HPK/2019/0376 - Retrospective change of use of former redundant Quarry site to form haulage park for Lomas distribution for up to 150 trailers and 150 vehicles Land at Waterswallows Road, Green Fairfield, Buxton

No updates.

HPK/2020/0261 - Reserved Matters application for Access, Appearance, landscaping, layout and scale in relation to HPK/2016/0692 - Land surrounding Alders Meadow, Chinley

Derbyshire Wildlife Trust

Comments received regarding revised plans

Our previous comments have been fully addressed. The amended landscape plan provides sufficient details of proposed bird and bat boxes along with hedgehog gravel boards. The hedgerow along the site frontage has also been changed to a mixed native hedge in line with previous comments.

There is a commitment on the planting plan to retain, protect and manage the area in the north west in line with Cheshire Woodland Proposals

OFFICER COMMENT

Following the publication of the agenda the Applicant has confirmed that they would prefer a condition to secure the details of the management of the open space at this time plans have not been finalised (this condition is included within the Committee report). They have confirmed that the land will be accessible for local residents/community groups/schools and also Network rail for maintenance purposes.

Environmental Health

Comments received regarding revised plans

The acoustic report submitted in support of the application cannot be accepted at this time as it refers to a superceded plan and plot numbers do not match the current layout. I've asked that traffic noise for zone 2 is distance corrected, or upgraded acoustic glazing is adopted.

Note: the noise mitigation scheme incorporates 2.1m high close boarded fence on the railway boundary, and surrounding rear gardens (for road noise).

The report should include further details of the fencing specification required.

The proposed boundary treatments plan may need updating to reflect this.

With the proposed mitigation scheme, noise from rail traffic should be adequately reduced, however road traffic noise on the southern boundary will exceed both the desirable, and acceptable noise levels for external amenity spaces.

- Desirable criteria (guideline) = 50 dB LAeq, 16hr
- Acceptable criteria (guideline) = 55 dB LAeq, 16hr
- Predicted noise levels = 58 dB LAeq, 16hr

This represents a low risk adverse effect and is an issue of planning balance. It's for the planning officer to decide if the housing need justifies accepting this, or if further mitigation is required utilising good acoustic design (i.e. buffer zones, resulting in a lower housing density).

OFFICER COMMENT

The predicted noise levels arising from road traffic on the southern boundary is marginally above the acceptable guideline criteria. Efforts have been made to mitigate for and reduce the effects of this noise by additional fencing and planting. On balance, the potential for a loss of amenity to residents as a result of road noise is not considered to outweigh to positive impacts of this development as detailed within the Committee Report.

Highways

Comments received regarding revised plans

Exit visibility sightlines are acceptable.

The proposed entry/ exit radii at the junction serving the first area of development haven't been increased as recommended in order to reduce the likelihood of over-run of the footways.

The proposed carriageway width serving the first area of development does not meet this Authority's current requirement of 5.0m minimum.

It's noted that hedging is to be kept below 1.0m in height (this should be in relation to the nearside carriageway channel level therefore, once the full face kerb and footway crossfall are taken into account this is likely to be closer to 800mm above the adjacent footway surface level), however, I would expect to see the driveway exit visibility sightlines demonstrated on the Layout Plans in order that they may be Conditioned to be maintained clear as appropriate.

Whilst a number of off-street parking spaces are less than the currently recommended dimensions, I would suggest that they are generally acceptable and trust that the level of provision satisfies your own Authority's requirements.

There don't appear to be any areas identified for standing of bins clear of the proposed highway on waste collection days. The access to the second area of development is still demonstrated as being formed using kerbed radii whereas this should be a dropped kerb serving a private access road.

The turning facility on the proposed private road would appear to be the same as previously submitted and it's assumed that the views of the local refuse collection service have been sought with respect to collecting from within this part of the site. If they are unwilling to enter, a communal collection point will need to be provided adjacent to, but not within, the existing highway.

The proposed driveway serving the third area of development is clearly less than the required 5.0m width required for access by refuse vehicles and, given that swept paths for a 3.5t Box van have been provided, it's anticipated that collections will be made from the existing adopted length of Alders Meadow. This being the case, areas clear of the existing highway from which bins will be collected from should be clearly identified.

I would suggest that a number of the outstanding issues may be resolved by Condition, however, increasing the proposed junction radii and carriageway width of the access road to serve the first area of development will be likely to impact on the proposed housing/ parking layout and areas for standing of waste bins clear of the existing and proposed highway should be clearly identified and suitability confirmed by the local collection service as there would be potential for clusters of numerous waste bins from the second and third areas of development obstructing the existing footways, a situation considered against the best interests of safe operation of the public highway. It is, therefore, recommended that details to satisfactorily address these issues are sought.

If you are minded to approve the details on an as submitted basis, recommended Conditions for inclusion can be provided, however, it should be noted that the Highway Authority would be unlikely to seek adoption of any sections of road not meeting current design criteria.

OFFICER COMMENT

In light of the comments received after the publication of the agenda, the Applicant is working to address the technical matters above. The comments do not raise objections on the grounds of highway safety and can be appropriately dealt with via condition, which will be provided by highways. It is therefore suggested that an alteration is made to the recommendation to include any forthcoming conditions.

Amended recommendation:

It is recommended that planning permission be APPROVED, subject to the following conditions [included in the Committee report] and any conditions required by Derbyshire County Council Highway Authority;

HPK/2020/0222 – Application for two additional movable shepherd huts to be used as visitor accommodation within the same site as four existing approved huts at Windy Harbour Caravan Site, Woodhead Road, Glossop

No update.

HPK/2020/0316 – Variation of Condition 2 (HPK/2019/0273) - Land at Cemetery Road, Glossop

No update.

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Appendix 3A



DEVELOPMENT CONTROL COMMITTEE AGENDA

Date: Monday, 19 April 2021

Time: 1.30 pm

Venue: Virtual Meeting

You can view the agenda online by using a smart phone camera and scanning the code below:



9 April 2021

PART 1

1. Chair's announcement
2. Apologies for Absence
3. To receive Disclosures of Interest on any matters before the Committee
 1. Disclosable Pecuniary Interests
 2. Other Interests
4. Minutes of the previous meeting (**Pages 3 - 8**)
5. Update Sheet
6. Planning Applications (**Pages 9 - 10**)
7. HPK/2020/0301 184 Taxal Edge Macclesfield Road Whaley Bridge SK23 7DR (**Pages 11 - 54**)
8. HPK/2021/0006 Land across the road from 3 Silk Hill, Buxworth, Derbyshire, SK23 7TA (**Pages 55 - 66**)
9. HPK/2021/0040 142 Brown Edge Road, Buxton (**Pages 67 - 74**)

MARK TRILLO

EXECUTIVE DIRECTOR AND MONITORING OFFICER

Membership of Development Control Committee

Councillor R McKeown (Chair)
Councillor A Barrow
Councillor C Farrell
Councillor G Oakley
Councillor P Roberts
Councillor J Todd

Councillor D Lomax (Vice-Chair)
Councillor L Dowson
Councillor I Huddlestone
Councillor J Perkins
Councillor E Thrane
Councillor S Young

Appendix 3B

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

19th April 2021

Application No:	HPK/2020/0301	
Location	184 Taxal Edge Macclesfield Road Whaley Bridge SK23 7DR	
Proposal	Demolition of the existing building known as "Taxal Edge" and the detached garage building and the erection of 7 no. dwellings	
Applicant	Treville Properties Ltd	
Agent	Emery Planning Partnership	
Parish/Ward	Whaley Bridge	Date registered: 24/07/2020
If you have a question about this report please contact: Rachael Simpkin rachael.simpkin@highpeak.gov.uk 01538 395400 extension 4122		

REFERRAL

The application scheme is locally controversial.

1. SUMMARY OF RECOMMENDATION

REFUSE, the scheme is contrary to Adopted Local Plan Policies, including:

- **H1 'Location of Housing Development'**
- **EQ2 'Landscape Character'**
- **EQ3 'Rural Development'**
- **EQ6 'Design and Place Making'**

2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The site area is given as 0.49 ha (hectares) and comprises Taxal Edge, 184 Macclesfield Road, a large private property in spacious grounds with a detached garage. The house was formally a boarding school / hostel until 2008 when planning permission was granted for a change of use of boarding hostel into a single dwelling house ref. HPK/2008/0069.

2.2 The site is accessed from a private road off Macclesfield Road, Whaley Bridge. A PROW (Public Right of Way) HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary of the application site to demarcate the edge of the Whaley Bridge settlement to its northwest edge. In turn, the PROW creates a distinct channel of countryside between the Built up Area Boundary and the application site.

2.3 Planning Permission ref. HPK/2009/0689 was granted in 2010 for the conversion of Taxal Edge into 7 apartments as well as the conversion of the classroom block and detached garage into two detached houses. In relation to the former classroom block, this lies adjacent to the application site and within its ownership. It represents a detached house on elevated ground with prominent dormer windows and extensive glazing. The building works undertaken, however, appear to represent a new build rather than conversion scheme. In addition, a proposed garage / study intended for the proposed 'classroom conversion' is shown located outside of the blue land.

2.4 Following on from the 2009 consent, planning permission ref. HPK/2013/0503 was granted for the proposed conversion of Taxal Edge to form 5 Apartments as well as two semi detached houses in the area of the former gymnasium.

2.5 The status of these consents is currently being investigated by the Council's Planning Enforcement Team and any relevance to the scheme will be referenced within the report below.

2.6 The application site lies outside the Built-up Area Boundary of Whaley Bridge, other than where the access track joins with the Macclesfield Road, as defined on the Policies Map within the Adopted Local Plan. The site lies within the countryside with a landscape character type of Settled Valley Pastures defined as follows: *"The underlying geology is gritstone and shale. There are scattered farmsteads outside the compact settlements. This is a pastoral landscape with permanent improved pasture which gives way higher up the slopes to poorer grazing where the ecological value is greater. The landscape has a strong network of winding lanes and roads and railways along the lower slopes above the floodplain. This is a well wooded landscape with wooded cloughs around tributary valleys and hedgerows with some hedgerow trees which define irregular fields. Amenity tree groups are associated with settlements and there is woodland along the roads and railway lines. As with the field boundaries, the woodland often has irregular outlines"*.

2.7 Under the Town and Country Planning Act 1990, Town and Country Planning (Tree Preservation Orders) (England) Regulations 2020, the Council has made Tree Preservation Order 2020 No. 294 for the wider application site, which came into temporary force on the 18th September 2020. Objections or comments were due by the 23rd October 2020. It has been decided not to recommend that the TPO is confirmed and made permanent at this time. All of the most mature trees impacted by the scheme are protected by the County order.

2.8 On the 23rd March 2021, the applicant has submitted to the Council a Notice of intention to submit and appeal in respect of the planning application.

3. DESCRIPTION OF THE PROPOSAL

3.1 The applicant seeks full planning permission for the demolition of the existing buildings and the detached garage building and the erection of four 4-

bed semi-detached and three, 6-bed no. detached split-level dwellings of a 2.5 storey scale to be arranged in a linear formation along the rear slope of the site.

3.2 Front dormer windows, integral garages and front and back gardens are proposed for each property. Each house would be constructed of reclaimed natural grit stone brick, grey aluminium windows and a blue/grey natural slate roof.

3.3 For the existing detached house within the south of the site (the subject of a Planning Enforcement investigation), a further detached flat-roofed double garage and study is proposed beneath the existing embankment.

3.4 Access is gained from the Macclesfield Road as per the existing arrangements. Each dwelling would be served off a private driveway which culminates at the end of the cul-de-sac.

3.5 The scheme was placed on the agenda for the 5th October 2020 Development Control Committee. On the 1st October 2020, the applicant submitted a Counsel's legal opinion in an attempt to address the issues of concern within the committee report as well as the three reasons for refusal within it. This opinion concluded that the Applicant benefits from a fallback position due to the lawful use of the building not being as set out in the report and the extant permissions at the site being a valid material consideration. Officers agreed to withdraw the report from the agenda to allow due consideration of the matters raised within this submission.

3.6 The applicant had also submitted further commentary in relation to the principle of development, trees and housing mix.

3.7 The scheme was placed on the agenda for the 9th November 2020 Development Control Committee following consideration of earlier submissions. Before the matter was heard by the Committee, the applicant submitted a further Counsel's legal opinion as reported on the Update Sheet. Officers agreed to withdraw the report from the agenda to allow due consideration of the matters raised within this submission.

3.8 The Applicant has also drawn attention to a letter which they submitted relating to the poor management of the former Children's Care Home which occupied the site and that the application would have the benefit of erasing the physical traces of this former use. This is not found to be a material consideration in the determination of the application as it does not relate to genuine matters of land-use planning.

3.9 On the 1st March 2021, the applicant submitted further commentary in relation to housing mix.

3.10 The application and details attached to it, including the plans, supporting documents, representations and consultee responses can be found on the Council's website at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=241372>

4. RELEVANT PLANNING HISTORY

HPK/0002/5081 - Additional Car Parking Provision Adjacent To Main Driveway. APPROVED 06/04/1987

HPK/2008/0069 - Change Of Use Of Taxal Edge From Boarding Hostel And Associated Ancillary Residential Accommodation To Use As Single Family Dwelling. APPROVED 28/03/2008

HPK/2009/0209 - Change Of Use From Single Dwelling To Ten Apartments Involving Internal Alterations Only. WITHDRAWN 26/06/2009.

HPK/2009/0689 - Conversion Of Single Dwelling House To Provide Seven Apartments And Conversion Of Classroom Block And Disused Garage Into Two Detached Houses. APPROVED 29/03/2010

HPK/2013/0503 - Proposed Conversion Of Taxal Edge 184 Macclesfield Road To Form 5 Apartments And To Construct 2 New Semi Detached Houses In The Area Of The Existing Gymnasium. APPROVED 25/11/2013

HPK/2015/0518 - Application for outline permission for proposed semi-detached dwellings. REFUSED 11/12/2015

HPK/2015/0518 – Outline planning application for 2 no. semi-detached dwellings – REFUSED 11.12.15

The application was refused as follows: *“The proposed dwellings would comprise of residential development outside of the established settlement hierarchy and as such would represent an unsustainable form of development which would suburbanise and harm the character and appearance of the open countryside and the rural landscape in which the proposal is set. Furthermore the proposal fails to demonstrate that adequate space would be available to accommodate the proposed dwellings and any necessary amenity areas. The proposals are therefore contrary to Saved Policies OC1, 3 & 4, H1 and GD5 of the Adopted High Peak Local Plan 2008 and Policies H1, EQ2, EQ3, EQ5 of the emerging High Peak Local Plan Submission Version April 2014 as well as guidance contained within Paragraph 55 of the National Planning Policy Framework.”*

5. CONSULTATIONS

Expiry:

Site notice	01/09/2020
Press notice	N/A
Neighbours	13/08/2020

Public comments

A total of ten 'objection' representations have been received, summarised as follows:

- An increase to planned numbers of dwellings will affect the rural feel of the area
- Added impermeable surfaces will increase water run-off onto Macclesfield Road, and Linglongs Road, which already floods in periods of wet weather
- Potentially dangerous road access from/to Macclesfield Road
- Addition of further traffic in Whaley Bridge
- Bin collection area planned too close to existing houses
- Right of way through property used by walkers – this track has been widened without permission
- Loss of wildlife habitat
- Woodland forms part of approach to National Park
- Will intrude on and overlook the houses further down the slope, particularly due to three storey height
- Loss of light to houses on Linglongs
- 4 and 5 bedroom houses will not help locals trying to get on the housing ladder, and there is plenty of supply at this end of the market
- Impact on protected trees
- Development should be restricted to the footprint of the current building
- A covenant is in place that any new buildings erected on the land shall not exceed the height of the building as at 31 March 2016
- Previous development on this site was refused as unsustainable
- Will be very difficult for construction vehicles to turn on access road
- Land has the potential for contamination – not addressed
- Loss of trees – including those under TPOs
- Alleged HMO use of property in recent years without permission
- Part of the site is countryside
- Slope stability concerns
- Concern that works will cause land stability and threaten 21 Linglongs Avenue
- Concern about overlooking

A total of six 'support' representation have been received, summarised as follows:

- The junction is historically a safe one
- The proposal is more attractive than the current building
- Improving the access road (PROW) will help those with mobility issues
- Support for resurfacing of road – neighbours were consulted
- Will improve area
- This application is better than the one for 9 properties in 2013
- Treville developments elsewhere in High Peak are of good quality and support local firms

Councillor Kath Thomson

I am objecting to this development for several reasons. The main one is these houses will not be affordable housing for local people which Whaley is desperate for. We must think of the houses below the development which will be looked on. The road going up to this site is totally unacceptable for the amount of possible traffic, we will have enough extra housing with the Linglongs housing and enough extra traffic. If these houses were smaller or more affordable, even for rent local people it would maybe be more favourable. Rentable property is almost non existent in our village. Therefore I object.

Consultees

<u>Consultee</u>	<u>Comment</u>	<u>Officer response</u>
AES Waste	No Objection	Refer to the technical section
Notes: Bin Collection point - Please make sure this area has enough room for bins so not to cause an obstruction on collection days. Potentially 14 bins there on recycling days. Also no bin storage identified at properties.		
United Utilities	Conditional Response	Refer to the technical section
<p>Drainage</p> <p>In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.</p> <p>We request the following drainage conditions are attached to any subsequent approval to reflect the above approach detailed above:</p> <p><i>Condition 1 – Surface water</i> <i>No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:</i> <i>(i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;</i> <i>(ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and</i> <i>(iii) A timetable for its implementation.</i> <i>The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.</i> <i>The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.</i></p>		

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

Condition 2 – Foul water

Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

The applicant can discuss any of the above with Developer Engineer, Matthew Dodd, by email at wastewaterdeveloperservices@uuplc.co.uk.

Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

Management and Maintenance of Sustainable Drainage Systems

Without effective management and maintenance, sustainable drainage systems can fail or become ineffective. As a provider of wastewater services, we believe we have a duty to advise the Local Planning Authority of this potential risk to ensure the longevity of the surface water drainage system and the service it provides to people. We also wish to minimise the risk of a sustainable drainage system having a detrimental impact on the public sewer network should the two systems interact.

We therefore recommend the Local Planning Authority include a condition in their Decision Notice regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development.

For schemes of 10 or more units and other major development, we recommend the Local Planning Authority consults with the Lead Local Flood Authority regarding the exact wording of any condition.

You may find the below a useful example:

Prior to occupation of the development a sustainable drainage management

and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:

a. Arrangements for adoption by an appropriate public body or statutory undertaker, or,

management and maintenance by a resident's management company; and

b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

Please note United Utilities cannot provide comment on the management and maintenance of an asset that is owned by a third party management and maintenance company. We would not be involved in the discharge of the management and maintenance condition in these circumstances.

Water Supply

The applicant must undertake a complete soil survey, as and when land proposals have progressed to a scheme design i.e. development, and results submitted along with an application for water. This will aid in our design of future pipework and materials to eliminate the risk of contamination to the local water supply. We can readily supply water for domestic purposes, but for larger quantities for example, commercial/industrial we will need further information. The applicant should be instructed to lay their own private pipe, to United Utilities standards, back to the existing main. If this should involve passing through third party land United Utilities must receive a solicitor's letter confirming an easement, prior to connection. According to our records there are no legal easements affected by the proposed development. If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for.

To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at **DeveloperServicesWater@uuplc.co.uk**

Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.

United Utilities' Property, Assets and Infrastructure

A public sewer crosses this site and we may not permit building over it. We will require an access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of Part H of the Building Regulations, for maintenance or replacement. Therefore a modification of the site layout, or a diversion of the affected public sewer may be necessary. All costs associated with sewer diversions

must be borne by the applicant.

To establish if a sewer diversion is feasible, the applicant must discuss this at an early stage with our Developer Engineer at wastewaterdeveloperservices@uuplc.co.uk as a lengthy lead in period may be required if a sewer diversion proves to be acceptable. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.

Whaley Bridge Parish Council	Objection	Refer to the technical design / layout section
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The Council's main concerns are over the maintenance of the footpath and access to Macclesfield Road. The access road comes out onto a blind corner and the Council is concerned about the vision splays onto Macclesfield Road. The footpath is well used by members of the public and the Council is concerned that there will be cars traveling down a well-used footpath as well as over the ongoing maintenance of this footpath. Finally, the Council thinks the area is a sensitive area from a landscape point of view and that there are too many properties proposed in the space.

Derbyshire Wildlife Trust	Conditional Response	Refer to the nature conservation section
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The above application is accompanied by an Ecological Appraisal (NLG Ecology Ltd, 2020) and a Bat Survey Report (NLG Ecology Ltd, 2020). These provide sufficient information to enable the LPA to determine the application.

The main building supports a small number of roosting pipistrelle bats and as such a licence will be required to legalise the demolition and loss of these roosts. The mitigation and compensation measures summarised in the Bat Survey Report are considered suitable and will be detailed in the bat licence submitted to Natural England.

Proposals include compensatory native tree and shrub planting to offset any tree removal and a Woodland Management Plan for the rest of the woodland within the land holding. We recommend that a bat box scheme could be installed within the woodland as part of this Plan. These measures should avoid a net biodiversity loss and potentially bring about a net gain. In addition, we advise that a Construction Environmental Method Statement (CEMP) is conditioned to secure precautionary measures for site clearance, sensitive lighting during construction, woodland edge protection etc.

The ecology report highlights that the application area lies within the Impact Risk Zone (IRZ) for Toddbrook Reservoir Site of Special Scientific Interest

(SSSI). The identified risks for this SSSI include “all planning applications (except householder)”. As such, the LPA should consider consulting Natural England with regards to the Impact Risk Zone.

Should the LPA be minded to approve the application, we advise that the following conditions are attached:

Bat Licence and Mitigation

The demolition of the main building shall not take place until either a Bat Low Impact Class Licence or a European Protected Species licence has been obtained from Natural England. Upon receipt of a licence from Natural England, works shall proceed strictly in accordance with the approved mitigation, which should be based on the proposed measures outlined in the Bat Survey Report (NLG Ecology LTD, 2020). Such approved mitigation will be implemented in full in accordance with a timetable of works included within the licence and followed thereafter. A copy of the licence will be submitted to the LPA once granted. Confirmation will also be submitted to the LPA once all mitigation is installed, along with a copy of the results of any monitoring works.

Construction Environmental Method Statement (CEMP: Biodiversity)

No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be based on recommendations in the Ecological Appraisal (NLG Ecology Ltd, 2020) and the Bat Survey Report (NLG Ecology Ltd, 2020) and include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Woodland Management Plan

Prior to the completion of the development, a Woodland Management Plan shall be submitted to the LPA for approval, in accordance with details in paragraph 4.1.19 of the Ecological Appraisal (NLG Ecology Ltd, 2020). The approved scheme shall be implemented in full in perpetuity.

Natural England

No Objection

Refer to the nature conservation

		section
<p>19.10.20: Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.</p> <p>Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.</p> <p>Toddbrook Reservoir Site of Special Scientific Interest Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.</p> <p>Protected Landscapes – Peak District National Park The proposed development is for a site within or close to a nationally designated landscape namely Peak District National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.</p> <p>Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.</p> <p>Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.</p> <p>The landscape advisor/planner for the National Park will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.</p> <p>The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes.</p> <p>Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice</p>		

Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Peak District National Park	Awaited	Members will be updated via the Update Sheet
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DCC Urban Design Officer	Objection	Refer to design / layout section
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The site lies outside the settlement boundary on the western edge of Whaley Bridge. There is a distinct change between built up character and woodland character landscape. The green belt designation falls to the western edge of this band of woodland. The site is banked above the B5470. When visiting the site, it was evident that changes are being made now with piles of rubble, stone and cut down trees, some that look like substantial Beech trees.

The lane presently consists of an unmade track and the creation of a hard surface driveway will significantly change the character and appearance of this soft edge to the current settlement boundary. Presently the wooded landscape is characteristic of the setting of the existing building, typical for a large detached Edwardian Villa of this period. The change to a linear form of three storey dwellings is a change that diminishes the landscape setting significantly.

I am concerned from public comments that the character of this access road has already been altered from a cobbled walkway with gritstone kerbs to a widened track. This loss is regrettable as it leads to a gradual erosion of the countryside character and prevents a proper assessment from being made. This alters the aesthetic value of this wooded approach, the character of the edge of settlement and the transition into countryside and the National Park.

Any increase in number of houses and vehicle activity on the access road close to Macclesfield Road needs to be considered. This may have implications on the design of the junction and subsequent loss of character of this edge of village. If it were the case that a more engineered highway solution would result, then I would consider this a significant loss of character.

The proposed houses will appear dominant and do not relate well to Beech Rise and Linglongs Road. The existing large Edwardian house is a two-storey building with hipped slate roofs and projecting bay windows. Having had several unsympathetic alterations over the years, with felt roof dormer, half-timber additions, and external metal staircases, it appears in a rundown condition. However, the option of restoring the building is still a possibility and it may have value as a non-designated heritage asset. I would support this approach.

A new substantial detached 2 storeys dwelling with three large dormers and large windows built to a more contemporary style with reclaimed natural grit stone brick, grey aluminium windows and blue/grey natural slate roof has been established on site. This is set back quite separately and elevated to the main

building. This building replaces the previous classroom block and contrasts in style to the main building. My main concern is to ensure the sensitive treatment of the overall landscape setting around both buildings as at think this new house would be better to appear less dominant in the landscape setting.

On the proposals map, the site is located adjacent to but outside of the built-up boundary of Whaley Bridge. It is in the countryside between the built-up area boundary and the Green Belt. From an Urban Design perspective, the main consideration is whether the character relates well to the existing pattern of development and surrounding land uses and of an appropriate scale.

The 1843 – 1893 Map shows Taxal Wood below extending into Walker Brow. This natural woodland wedge with footpath HP23/56/1 traditionally defines the edge of settlement. The track leads to registered common land at Taxal Moor which suggests it is an historic route to and from the village. This has a heritage value and the changes to the track should be considered as it is diminishing this historical footpath by changing its character.

The later housing area backing onto the track gives a clear hard built up edge. The large buildings within the woodland area to the west of the track are in their own parkland setting of a distinctively different character. To extend a denser pattern of development into this woodland area is not very well connected with the existing pattern of development, it is also destroying the woodland character of the site to an extent of impacting on the character of the countryside edge. The applicant may suggest that it is a logical extension of the built edge towards the Macclesfield Road, but I would dispute this as it is the landscape character that is the defining element.

I think the long front driveways and gardens will emphasis the completely changed nature of the landscape setting and increase the amount of hard surface intrusion into this woodland area. Surfaces should be kept to a minimum. Despite showing trees retained next to Brewood to create a woodland gap, it has the effect of separating the group of houses within the site with no continuity.

The Scale is substantial when considered on mass. The bulk of the dwellings appear three storeys due to the large wide dormer windows. I also find the integral garages not a very authentic response in this woodland location. Image No2 showing a high wall to rear boundary and stepped retaining walls to allow for subterranean garages exaggerate the height of the houses, particularly at plot 7 showing the existing house with the garages in front. The overall impression is more of a modern town house development. This is not the response I would expect at this woodland edge and rural edge where I would expect a more traditional vernacular. I can see that the adjoining housing estate is of a similar grain with contemporary houses, but it is still the case that the development is not responsive to the actual site conditions and relies on significant remodelling. It is not contextual to the immediate site of the edge of settlement location. A more dispersed pattern and low-key development would be a better response.

The images show little remaining trees and a landscaped frontage with manicured lawned frontages. This will look unattractive in this location. These

modern 'large Victorian villas' in terms of scale and massing, are exaggerated by the addition of the frontage terraces and garages and retaining walls which to me detracts from the overall architectural response.

The character of the original main building was that of a country residence standing in large grounds constructed around 1918. This character is typical of large detached Edwardian houses of that period found in such edge of settlement location within their own generous grounds. I would prefer to see a scheme that maintained the existing building and grounds as they are without extensive remodelling of the site or introduction of extensive hard surfaces with the existing trees and landscape layout remaining largely unaffected. The present application represents the extension of the existing residential use to the point of changing the whole character of the site. The long driveways are intrusive.

Conclusion: From an Urban Design Perspective, the current site has a significantly different character to the adjoining urban area and represents a characterful landscape transition to the adjoining countryside. It has a distinctive character and placemaking qualities that will be destroyed by the proposed development, which is overly dominant within this woodland setting and does not relate well to the adjoining suburban streets. A more low-key traditional development would be more in keeping with the few traditional houses remaining outside the settlement boundary. However, my preference would be for the retention and renovation/reuse of the main building than the proposed development of linear houses. The site required more sympathetic treatment of external works to be contextual to the current setting.

HPBC Officer	Arboricultural	Conditional Response	Refer to design / layout section
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03.11.20:

Background

The site is partially covered by a DCC TPO 175 made in 1980. However, to ensure all the trees on the site were protected a temporary HPBC area order TPO was made. Whether the new TPO will be confirmed, modified or allowed to lapse will be decided based on the outcome of this application. On the 3/11/20 a full BS 58378:2012 tree report has been provided and the proposals have been assessed in the light of this and the site visit of 15/10/20.

Arboricultural impact

Plots 1 and 2

The location of Plots 1 and 2 have the most significant impact on trees, to accommodate these plots 4 trees, T14 to T17, will need to be removed due to their close proximity to the existing structure and the proposed dwellings. On balance I agree that the sustainable retention of these trees may in any event be limited by their close proximity to built structures. However, their loss needs to be mitigated for by replacement planting.

I have concerns about the proximity of the proposed dwellings, particularly Plot

1 to the mature specimen beech T13 (tree no 2 in the tree condition survey). This tree is a high amenity mature specimen tree it is located about 13m from the proposed gable end of this structure, this means that there is a slight encroachment of the root protection area (RPA).

The root protection areas defined by BS5837:2012 are the minimum recommendation and individual circumstances should be taken into account. In this case given the age and the condition of the tree a larger offset from the tree would be warranted. In addition, the relationship between this tree and the proposed dwelling, the tree being in excess of 20m in height, here is an elevated risk potential from the tree in relation to the proposed dwelling. At present the tree is not a significant risk but by placing a residential dwelling within the fall zone of this tree to potential risk is increased.

These plots both have modest gardens areas and back on to the protected woodland there is likely to be shading issues with this garden facing the north west and both trees surrounding the house and the property itself will significantly shade the rear gardens. Whilst plots 1 and 2 can be accommodated they are not ideally positioned in relation to the existing trees so there is potential for ongoing conflict and premature tree loss. Reducing the dwellings to 1 instead of 2 in this location and giving the existing trees more space and creating more usable outdoor space which is less effected by shading would be preferable.

Plot 5

The rear garden is dominated by the sycamore T20, this tree is growing out of the wall. This tree is not ideally placed for retention if it can be retained this will be a bonus. However, any tree loss here needs mitigation within the woodland

Plot 6

Ash T12 to be felled but this has a limited life expectancy due to ash die back disease so subject to adequate and appropriate replacement planting I have no issues.

Existing house and access Road

The proposed new garage and hard surfacing access road encroaches into the rooting area of the mature specimen beech tree T27, (numbered T5 in the tree condition survey) . As with the tree near plot 1 this tree should ideally be given greater root protection area given its age and size. Also it would be prudent to design the garage / study to be outside the immediate vicinity of the tree to reduce any potential risk from this tree and therefore avoid premature removal.

Landscaping

The landscaping proposals can be divided in to 2 main parts. The amenity planting within the red edge of the development and woodland and other planting and management within the blue line area and subject to a s106 agreement. At this stage landscaping can be conditioned and the details agreed at a later date as long as the principals are agreed. The indicative landscaping shown on the plans will need to be amended to be acceptable and will need to be considered alongside a landscape and ecological management plan.

With regards to the amenity tree planting within the development some species amendment would be required and some larger specimen trees should be included to be planted at significant points within the site. Woodland planting will need to be part of the overall LEMP for the wooded area and be in addition to any other planting required by existing legal obligations for example if restocking is part of the felling license agreement. This planting and management of the woodland will need to be agreed as part of the s106 agreement.

Summary

The temporary TPO is to remain in place for the time being. Although it will be subject to modification once a layout for this site has been approved. The proposals impact on 2 mature beech trees T13 and T27 the minimum required Root protection area is encroached upon and the juxtaposition of the proposed structures creates an elevated risk which will lead almost certainly to the premature removal of these mature specimens. Some amendments to the layout to improve the relationship of proposals with these existing trees would be preferable. The landscaping and ecological management and mitigation needs to be conditioned and a s106 agreed to ensure that it is implemented.

Date: 16.09.20

The site is partially covered by a DCC TPO and the trees on the site are an important landscape feature. I am aware that some tree works have been undertaken for safety reasons and these have been agreed with DCC where the trees were covered by there TPO. However there are a number of trees in site not covered by this TPO which will be affected by the proposals.

The Arboricultural report submitted with the application relates only to safety issues with a selected number of the trees. Whilst its content is noted it does not provide the information required to assess the impact of the proposals on the trees.

In particular:

- A detailed up to date tree survey in accordance with BS5837:2012
- A clear indication of trees to be removed and retained as part of the proposals
- The root protection areas required for the trees to be retained
- Any indication of how the trees will be protected during construction

The proposed layout and arboricultural impact:

- From the plans its appears that Plots 1, 2, 5, 6, and 7 all encroach on the rooting areas of trees shown to be retained. This combined with the required level changes on site could be detrimental to the trees
- The access road near to no 7 also encroaches into the rooting area of a tree to be retained
- There is a suggested replanting scheme but this not suitable for replacing the trees that will be impacted on due to the proposals. The planting consists of largely or relatively short lived species and which are almost entirely from one family.

DCC Landscape Officer	Objection	Refer to design /
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		layout section
<p>Views of the site are contained by existing mature trees from many viewpoints, however the Public Right of Way HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary providing close views, sometime clear and sometimes through vegetation. The presence of this footpath is significant in increasing numbers of receptors and their experience of the character of the site.</p> <p>Due to the well wooded nature of the site it has a distinct woodland character and contrasts with the adjacent built up character of the housing to the east. There is no development to the west and the site abuts countryside.</p> <p>The proposal is to demolish the existing building, a large detached Edwardian Villa and construct 7 new dwellings. The Design and Access Statement states that the proposed dwellings would be located where the existing buildings are located. However, plots 5, 6 and 7 and garages to plot 7 are located outside the footprint of existing buildings. The proposals include extensive level changes, tree removal and road construction and as such I consider they would fundamentally change the character of the site including the lane and public footpath at the entrance and could not be considered to protect, enhance or restore the Landscape Character of the site. I consider that the proposed layout design is poor, particularly how level changes are imposed into the landscape with a multitude of driveways ramping up to houses with retaining walls, along with the turning area and passing places they provide an extremely poor frontage.</p> <p>Information relating to existing trees in the application is vague, the tree survey concentrates on existing trees to the south and east of the site, and it does not seem to include trees to the north east of the site where most development is proposed. Some trees to be removed are shown on the existing Site Plan however no information is given regarding their quality or value. There are also several trees that are close to the proposed development area that would be affected by the works and at a site visit on 04/08/20 it was noted that felling had commenced to remove some of these trees. The proposed Site Plan and Landscape Works Plan show existing trees that are very close to dwellings and a new retaining wall to the north east boundary both of which are likely to have a significant impact on existing trees.</p> <p>Tree planting shown on the Landscape Works Plan is mostly of small ornamental species, I consider that there is scope in places to accommodate larger growing species and suggest that Beech are included to be in keeping with the existing character of the site.</p> <p>Overall I consider the proposals to be very insensitive to the existing site features and the character of the site. The proposed level changes and retaining walls in particular will have a significant and detrimental landscape impact at a local level. I would prefer a development that retains and converts the existing building. In this way the existing trees and overall character of the site could be preserved.</p>		

DCC Highways	Conditional Response	Refer to Technical Section
<p>As discussed, Consent has been granted in the past for a development comprising 7no. apartments and 2no. residential units subject to minor access improvements and formal closure of a second access to Macclesfield Road.</p> <p>Whilst the improvements to the access with Macclesfield Road have not been implemented, it is suggested that traffic activity associated with a development of 8no. residential units would not be so different as to warrant a refusal on highway Grounds, subject to the previously suggested measures being satisfactorily completed prior to any occupation. However, it is recommended that the introduction of a dropped kerb across the access is explored rather than use of carriageway markings as this would be considered to provide more physical protection to emerging vehicles as well as being more durable.</p> <p>Internal layout wise, the provision of a passing opportunity is noted as is the proposed turning facility that would appear to be of adequate dimension to enable a typical supermarket delivery vehicle to turn.</p> <p>Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.</p> <p>Whilst I do not have any details printed to scale, and the General Arrangements Plan is not dimensioned, in order to comply with current design guidance, the overall shared driveway corridor should be a minimum of 7.5m width.</p> <p>There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.</p> <p>A bin collection point is demonstrated in close proximity to the site entrance, however, it is recommended that the views of the local refuse collection are sought with respect to suitability of the proposals for their purposes i.e. if they intend to make collections from within the site, suitability of the turning head for use by a Large Refuse Vehicle of 11.6m length should be demonstrated by means of swept paths.</p> <p>The proposed level off-street parking provision is considered to be acceptable.</p> <p>Therefore, if you are minded to approve the proposals, it is recommended that the following conditions are included within the consent:-</p> <p>1. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme of highway improvement works for the junction of the access road with Macclesfield Road (B5470) together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details. For the avoidance of doubt the developer will be</p>		

required to enter into a 1980 Highways Act S278 Agreement with the Highway Authority in order to comply with the requirements of this Condition.

2. Space shall be provided within the site for storage of plant and materials, site accommodation, loading, unloading and manoeuvring of goods vehicles, parking and manoeuvring of employees and visitors vehicles, laid out and constructed in accordance with detailed designs first submitted to and approved in writing by the Local Planning Authority. The facilities shall be retained free from any impediment to their designated use throughout the construction period.

3. Prior to the construction compound, the subject of Condition 2 above, being brought into use, the existing vehicular access to Macclesfield Road adjacent to Brewood shall be permanently closed with a physical barrier in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

4. Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until a detailed scheme showing the proposed shared driveway layout shall be submitted to the Local Planning Authority for written approval, including intervisible passing opportunities and a turning facility suitable for use by the largest vehicles likely to frequently visit the site, laid out and constructed in accordance with the approved designs, the area in advance of sightlines being maintained throughout the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining shared driveway channel level.

5. No dwelling shall be occupied until space has been provided within the application site in accordance with the revised application drawings for the parking/ loading and unloading/ manoeuvring of residents/ visitors/ service and delivery vehicles to suitably serve that dwelling, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

6. There shall be no gates or other barriers within 15m of the nearside highway boundary and any gates shall open inwards only, unless otherwise agreed in writing by the Local Planning Authority.

7. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the agreed details and the facilities retained for their designated purposes at all times thereafter.

8. No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed shared driveway have been submitted to and approved by the Local Planning Authority. The driveway shall thereafter be maintained in accordance with the approved management and maintenance details until such time as a private management and maintenance company has been established.

In addition, the following Advisory Notes may be included for the information of

the applicant:-

a. The Highway Authority recommends that the first 10m of the proposed access driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner

b. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.

c. Pursuant to Section 278 of the Highways Act 1980 and the provisions of the Traffic Management Act 2004, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.

d. The applicant is advised that to discharge Condition 8 that the Local Planning Authority requires a copy of a completed Agreement between the applicant and the Local Highway Authority under Section 38 of the Highways Act 1980 or the constitution and details of a Private Management and Maintenance Company confirming funding, management and maintenance regimes.

e. The application site is affected by Public Rights of Way (Footpath numbers 56 and 95 Whaley Bridge on the Derbyshire Definitive Map). The route of these must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Advice regarding the temporary diversion of such routes may be obtained from the Executive Director of Economy Transport and Environment at County Hall, Matlock (tel: 01529 580000 and ask for the Rights of Way Officer).

f. Car parking spaces should measure 2.4m x 5.5m (2.4m x 6.5m where located in front of garage doors) with an additional 0.5m of width to any side adjacent to a physical barrier e.g. wall, hedge, fence, etc., and adequate space behind each space for manoeuvring.

HPBC Health	Environmental	No objections	Refer to Technical Section
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28.09.20: The Environmental Health Department has no objection to the proposed development subject to the conditions set out below being applied to any permission granted.

The construction/demolition stage of the development could lead to an increase of noise and dust etc. experienced at sensitive premises and subsequent loss of amenity, for this reason conditions 1 to 7 are suggested.

The proposed end use of the development is particularly sensitive to the presence of land contamination, for this reason the following conditions 8 is recommended.

1. CDD01 - CONSTRUCTION AND DEMOLITION – DUST
2. CDD02 - CONSTRUCTION & DEMOLITION: WASTE DISPOSAL
3. NSD12 - BEST PRACTICAL MEANS
4. NSD08 - PILING
5. NS02A - CONSTRUCTION & DEMOLITION WORKS: TIME OF OPERATIONS
6. CLD11 - ASBESTOS: REQUEST FOR INFO
7. CDD14 - ON SITE RADIO
8. CL03 CONTAMINATED LAND

6. PLANNING POLICIES RELEVANT TO THE DECISION

High Peak Local Plan Adopted April 2016

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S3 Strategic Housing Development
- S6 Central Sub-area Strategy
- EQ1 Climate Change
- EQ5 Biodiversity
- EQ6 Design and Place Making
- EQ7 Built and Historic Environment
- EQ8 Green Infrastructure
- EQ9 Trees, Woodlands and Hedgerows
- EQ10 Pollution Control and Unstable Land
- EQ11 Flood Risk Management
- H1 Location of Housing Development
- H3 New Housing Development
- H4 Affordable Housing
- H5 Rural Exception Sites
- CF3 Local Infrastructure Provision
- CF5 Provision and Retention of Local Community Services and Facilities
- CF6 Accessibility and Transport
- CF7 Planning Obligations and Community Infrastructure Levy

Supplementary Planning Documents (SPD)

- High Peak Design Guide SPD (2018)
- Landscape Character SPG (2006)
- Residential Design Guide SPD (2005)

National Planning Policy Framework (NPPF) 2018

National Planning Practice Guidance (NPPG)

7. POLICY AND MATERIAL CONSIDERATIONS

Planning Policy Context

7.1 The determination of a planning application should be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan currently consists of the Adopted High Peak Local Plan 2016.

7.3 The NPPF (National Planning Policy Framework) is considered to be a mandatory material consideration in decision making.

7.4 As before achieving sustainable development sits at the heart of the NPPF as referred to within paragraphs 10 and 11. This requires the consideration of three overarching and mutually dependant objectives being: economic, social and environmental matters where they are to be applied to local circumstances of character, need and opportunity as follows:

- a) *an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) *a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of the present and future generations; and by fostering a well designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well being; and,*
- c) *an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making the effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.*

7.5 LP (Local Plan) Policy S1a establishes a presumption in favour of sustainable development as contained within NPPF paragraph 11. It requires decision makers to apply a presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay or where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless:-

- I. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.6 The Council can currently demonstrate 5.22 years supply of housing land (as at 1st April 2020) including a 5% buffer and meeting the shortfall within the next five years using the agreed Liverpool Method approach. Accordingly, for decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay within the context of NPPF paragraph 11.

Principle of Development

7.7 The application has been made in full for the demolition of the existing building known as “Taxal Edge”, including detached garage building and the erection of 7 no. dwellings. The application site lies outside the Built-up Area Boundary of Whaley Bridge other than its access track where it joins with the Macclesfield Road and is located within the countryside with a landscape character type of Settled Valley Pastures as defined on the Policies Map within the Adopted LP (Local Plan).

7.8 LP Policy S2 ‘Settlement Hierarchy’ herein applies. It states that development will be directed towards the most sustainable locations in accordance with the following settlement hierarchy: Market Towns, Larger Villages and Smaller Villages.

7.9 LP Policy S2 also refers to ‘Other Rural Areas’. It says that in all other areas outside the settlement boundary of settlements, including those villages, hamlets and isolated groups of buildings in the Green Belt and the countryside, which do not have a settlement boundary, development will be strictly controlled. In accordance with the settlement hierarchy development here will be strictly limited to that which has an essential need to be located in the countryside or comprises affordable housing in accordance with LP Policies EQ3 ‘Rural Development’ and H5 ‘Rural Exceptions Sites’.

7.10 LP Policy S3 ‘Strategic Housing Development’ sets out that provision will be made for at least 7,000 dwellings over the plan period (2011-2031) at an overall average annual development rate of 350 dwellings. It goes on to say that sufficient land will be identified to accommodate up to 3,549 additional dwellings on new sites. The policy makes it clear that this will be met from

large sites allocated in policy H2 and from small sites which accord with LP Policy H1. Allocations account for 623-729 dwellings with the remainder (a total of 400 dwellings) to be met on small sites for the Central Area and the villages within the Central Area.

7.11 LP Policy EQ3 'Rural Development' seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment and the setting of the Peak District National Park whilst also facilitating sustainable rural community needs, tourism and economic development. This will be achieved by ... ensuring that all development is of a high quality design and protects or enhances landscape character and the setting of the Peak District National Park. LP Policy EQ3 identifies those circumstances where new residential development would be permitted, including development involving the re-use of redundant and disused buildings and / or the redevelopment of a previously developed site, where it does not have an adverse impact on the character and appearance of the countryside and which would meet with LP Policy H1 'Location of New Housing Development'.

7.12 Policy H1 of the Local Plan confirms:-

'The Council will ensure provision is made for housing, taking into account all other policies in this Local Plan, by:-

- a) supporting the development of specific sites through new site allocations in the Local Plan or a Neighbourhood Plan;*
- b) promoting the effective reuse of land*;
- c) supporting housing development on unallocated sites within the defined built up area boundaries*;
- d) encouraging the inclusion of housing in mixed use schemes*;
- e) supporting development identified through a Community Right to Build Order;*
- f) supporting self build housing schemes'.*

7.13 The proposal would not fulfil any of these criteria other than that only part of the site can be considered as previously developed land as per the NPPF definition. This is with reference to the building known as Taxal Edge, its garage, the 'former classroom' building and the associated parking, turning and access. These are usefully shown on the Location Plan for ref. HPK/2008/0069 illustrated below. Notwithstanding the reuse of an element of previously development land, the scheme clearly proposes residential development within the open countryside designated as Settled Valley Pastures. This is principally in relation to the detached Plots 5, 6, 7, including a detached garage / study with terrace to plot 7, individual driveways and associated access / turning head. Of note, the proposed site plan for the scheme shows a different footprint for the 'classroom conversion' to dwelling and a larger planning unit on the application proposal plan which falls outside of the red edge and is subject to a separate Planning Enforcement Investigation as stated above. Within the red edge, the scheme proposes a wider access to serve the proposed detached / garage store intended to serve the 'classroom conversion'.

7.14 A second strand of the LP Plan Policy H1 explains:-

“The Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other policies in this Local Plan, provided that:-

- g) the development would adjoin the built up area boundary and be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and*
- h) the development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside; and*
- i) it would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities; and*
- j) the local strategic infrastructure can meet the additional requirements arising from the development”.*

7.15 In relation to the first criterion, which states that ‘The development would adjoin the built up area boundary’, a PROW (Public Right of Way) HP/23/56/1 runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary of the application site to clearly demarcate the edge of the Whaley Bridge settlement to its northwest edge. In turn, the PROW and its associated land create a distinct c.12.0m wide channel of countryside between the Built up Area Boundary and the application site. In contrast the applicant’s viewpoint dated 30th October 2021 stated: *“The access to the site from Macclesfield Road directly coincides with the built up area boundary. The remainder of the eastern boundary of the red line is only separated from the built up area boundary line as shown on the proposals map by a footpath. Beyond the footpath are dwellings which front onto the Rise, Beech Rise and Linglongs Avenue.”*

7.16 The applicant’s Counsel opinion (November 2020) was reported in the 9th November 2020 Update Sheet. His Counsel referred to the interpretation of the meaning of the word ‘adjoin’, to be commonly held to describe something that is ‘very near, next to, or touching’ and *“Given that the application site is separated from the boundary of Whaley Bridge only by a footpath, it is undoubtedly the case that it is ‘very near’ to that boundary”*. Furthermore, that *“there should be some physical connection between the development site and the settlement boundary, without which the policy H1 test cannot be satisfied. This is plainly incorrect and fails to recognise the multiplicity of situations where proposed development sites are physically separated from a settlement boundary by a road or a path yet they will be read as part of the settlement once developed”*.

7.17 The Officer’s response was also reported within the Update Sheet and referred to the Planning Inspector considerations at the Tunstead Milton Appeal ref. APP/1033/W/16/3147726 as follows:

“18. The third part of Policy H1 of the LP establishes the circumstances where the Council will give consideration to approving housing development outside of the built up area boundaries. The first criterion is that ‘the development would adjoin the built up area boundary and be well related with the existing

pattern of development and surrounding land uses and of an appropriate scale for the settlement’.

19. The appellant argued that notwithstanding the fact that the appeal site is separated from the settlement boundary by a road it could still adjoin the settlement boundary. Whether or not this is the correct interpretation the criterion also requires compliance with the remaining part of the criterion.

20. For the reasons given I find that the proposal would not be well related to the existing pattern of development and it would be inconsistent with, and poorly related to, the surrounding land uses to the west, east and south which are primarily agricultural and open countryside. It would also introduce a land use which is largely uncharacteristic along this frontage and for these reasons would be contrary to the first criterion of part three of Policy H1 of the LP”.

7.18 The Planning Inspector for Appeal ref. APP/H1033/W/15/3136353, Land off Long Lane, Chapel-en-le-Frith also considered this aspect of LP Policy H1 as follows:

“26. Taking up the policy, the extent to which the appeal site would ‘adjoin the built up area boundary’ (in the sense of directly coinciding with it) would, at best, be limited to an almost inconsequential part of the northern boundary of the site where it runs close to the long rear gardens of a small number of dwellings in Downlee Close. Even then, the length of the gardens, their scrub woodland enclosure and an intervening narrow stream would, in perceptual terms, effectively remove any tangible association between the site and the built up area boundary.

27. The need, or otherwise, to take a wider definition of ‘adjoin’ (in the sense of being close to) can be embraced by the consideration of whether the site would be ‘well related with the existing pattern of development and surrounding land uses’ and whether the development would ‘..... lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside’

30. ... In overall terms, the appeal site has limited affinity with the pattern of development on the south-western edge of Chapel-en-le-Frith insofar as it is only the school and its extensive open grounds which would provide any semblance of connection between the site and the built up area.

31. It follows, as the site itself forms an integral part of the open countryside which embraces this part of the town, and, taking account of topography and the ethereal nature of its boundaries, that new development would undoubtedly intrude into the rural landscape”.

7.19 Firstly, and notwithstanding the reuse of an element of previously development land, the scheme clearly proposes a significant element of residential development on land within the open countryside designated as Settled Valley Pastures as outlined above. Secondly, the scheme for its majority would not adjoin the built up area boundary (other than its access track where it joins with the Macclesfield Road) to the northwest of the Whaley Bridge Settlement and this represents a correction of the earlier published

officer report. Whilst the previous proposal ref. HPK/2013/0503 acknowledged that the scheme would adjoin the built up area boundary, this decision clearly preceded the Adopted Local Plan and the introduction of LP Policy H1 as acknowledged by the applicant's Design and Access Statement concerning refused permission ref. HPK/2015/0518. Furthermore, the aforementioned appeals are material to the consideration in the assessment of the relevant LP Policy H1 criteria. In these circumstances, officers do not agree that these matters would lead to any inconsistent decision making in these regards.

7.20 The scheme would meet with the remaining aspects of LP Policy H1: “i) *it would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities; and j) the local strategic infrastructure can meet the additional requirements arising from the development*”. However, Officers consider that the scheme would not be well related with the existing pattern of development and surrounding land uses or be of an appropriate scale for this aspect of the Whaley Bridge settlement contrary to LP Policies S1, S2, S6, EQ3 and H1 in particular. These matters will be discussed in further detail within the relevant sections below.

Housing Type / Size

7.21 LP Policy H3 requires all new residential development to provide for a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs as based on evidence from the SMHA (Strategic Housing Market Assessment). As well as providing a mix of housing that contributes positively to the promotion of a sustainable and inclusive community taking into account the characteristics of the existing housing stock in the surrounding locality.

7.22 In line with the NPPF, the site does not constitute a major development and is not located in a designated rural area to trigger the requirement for affordable housing provision.

7.23 The scheme house types would meet with NDSS (National Described Space Standards). It does not, however, appear to provide for any specialist housing need including its scoring against accessibility standards as set out in the Optional Requirement M4 (2) of Part M of the Building Regulations and the proposal continues to raise some concerns in these regards.

7.24 In respect of housing mix, it would be expected that there would be a higher proportion of 1 and 2-bedroom properties and a lower percentage of 4 and 5+ bedroom properties than is proposed when comparing the existing stock as identified in the Ward Census data with the recommended levels from the SHMA. The applicant considers that their statement of housing mix was accepted by planning permission ref. HPK/2017/0247, relating to the Linglongs Road site located nearby, and is also more recent than the 2014 SHMA. Housing mix, however, could not be controlled by the aforementioned reserved matters consent as the relevant condition had not been applied to the outline consent as explained within the associated officer report and

therefore officers disagree that the report was accepted for the Linglongs scheme.

7.25 The applicant's further submissions on housing mix, including with reference to the recent appeal on Bingswood Road, Whaley Bridge ref. HPK/2017/0254 are being considered by officers and will be reported on the Update Sheet.

Character and Appearance

7.26 The scheme proposal is to demolish the existing building, a large detached Edwardian Villa and its garage and construct 7 new dwellings and is located within the countryside with a landscape character type of Settled Valley Pastures. The design and appearance of any new development in the countryside are key to protecting the High Peak character, including the setting of the National Park as advocated by LP Policy S6 'Central Sub-area Strategy'. LP Policy EQ2 Landscape Character states that new development should be sympathetic to landscape character and protect or enhance the character, appearance and local distinctiveness of the landscape as guided by the Landscape Character SPD. Also, LP Policy EQ9 'Trees, woodlands and hedgerows' states that the Council *"requires that existing woodlands, healthy mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss"*.

7.27 LP Policy EQ6 Design and Place Making emphasises the need for high quality, well designed development that reflects landscape character. The design merits of the scheme are addressed below in the context of identified policies, including the Council's High Peak Design Guide, which identifies overarching principles in securing good design as well as the NPPF. NPPF para 130 states: *"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents"*.

7.28 The relevant elements of LP Policy H1 as referred to above, require: (1) the development would adjoin the built up area boundary and would broadly be well related with the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and (2) it would not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside.

7.29 The site lies outside the settlement boundary on the western edge of Whaley Bridge. There is a distinct change between built up character and woodland character landscape. The Green Belt designation falls to the western edge of this band of woodland. The site is banked above the B5470. Presently the wooded landscape is characteristic of the setting of the existing building, typical for a large detached Edwardian Villa of this period. The access lane presently consists of an unmade track.

7.30 The County Urban Design Officer views on the scheme have been sought. It is highlighted that the track leading to the registered common land at Taxal Moor suggests it is an historic route to and from the village requiring consideration within the scheme. She considers that the later housing area backing onto the track gives a clear hard built up edge. Whereas the large buildings within the woodland area to the west of the track are within their own parkland setting and of a distinctively different character. She considers that the scheme to extend a denser pattern of development into this woodland area would not be well connected with the existing pattern of development and would also destroy the woodland character of the site to the extent of impacting on the character of the countryside edge. The officer strongly disputes applicant claims that the scheme would be a logical extension of the built edge towards the Macclesfield Road and landscape character should be the defining element of assessment.

7.31 As well, the County Landscape Architect Officer views on the scheme have also been sought. It is discussed that the views of the application site are contained by existing mature trees from many viewpoints. The Public Right of Way HP/23/56/1, however, runs along the lane at the entrance to the site from Macclesfield Road and then along the south eastern boundary to provide for close range views of the site, which are sometimes clear and sometimes through vegetation. The presence of this footpath, therefore is considered as significant in increasing the numbers of receptors and their experience of the character and appearance of the application site.

7.32 The applicant's Design and Access Statement considers that the proposed dwellings would be located where the existing buildings are sited. Plots 5, 6 and 7 and garage / study to plot 7 and the existing house, however, would be located outside the footprint of existing buildings. The scheme proposal includes extensive level changes, tree removal and road construction. As such, it is considered that the scheme would fundamentally change the character of the site including views from the lane and public footpath.

7.33 In these regards, the officer reports that the scheme could not be considered to protect, enhance or restore the landscape character of the site. Furthermore, the proposed layout design is poor, particularly how level changes are imposed into the landscape with a multitude of driveways ramping up to houses with retaining walls, along with the turning area and passing places they would provide an extremely poor frontage. Furthermore, the change to a linear form of three storey dwellings would be a change that is considered to diminish the landscape setting significantly. The creation of a hard surface driveway would also significantly change the character and appearance of this soft edge to the current settlement boundary.

7.34 Regarding house types, the Urban Design Officer states that the proposed houses would appear dominant and do not relate well to either Beech Rise and Linglongs Road. The existing large Edwardian house is a two-storey building with hipped slate roofs and projecting bay windows. The character of the original main building was that of a country residence standing in large grounds constructed around 1918. This character is typical of large detached Edwardian houses of that period found in such edge of

settlement location within their own generous grounds. The restoration of the building with a potential value as a non-designated heritage asset despite the unsympathetic alterations is viewed as the preferred development approach and without the extensive remodelling of the site or introduction of extensive hard surfaces with existing trees and landscape layout remaining largely unaffected.

7.35 The present application represents the extension of the existing residential use to the point of altering the whole character of the site. The long front driveways and gardens would emphasise the completely changed nature of the landscape setting and increase the amount of hard surface intrusion into this woodland area. The retained trees next to Brewood intended to create a woodland gap would have the effect of separating the group of houses within the site to allow for no continuity in settlement form.

7.36 The substantial, detached 2-storey dwelling with three large dormers and large windows altered to a more contemporary style immediately to the southwest of the application site appears dominant in its setting and is subject to a separate Planning Enforcement Investigation as mentioned earlier.

7.37 The Urban Design Officer also considers that the scale of the scheme is substantial when considered on mass. Whereby the bulk of the dwellings appear as three storeys due to the large wide dormer windows. It is also found that the integral garages are not an authentic response in this woodland location. The high wall rear boundaries and stepped retaining walls to allow for subterranean garages exaggerate the height of the houses. These modern 'large Victorian villas' in terms of scale and massing are considered to be exaggerated by the addition of frontage terraces, garages and retaining walls, which all seek to detract from the overall architectural response. The overall impression is more of a modern town house development relying on significant remodelling and therefore is not considered to be responsive to the existing site conditions at this edge of settlement location.

7.38 To summarise, the existing site has a significantly different character to the adjoining urban area and represents a characterful landscape transition to the adjoining countryside. This viewpoint is contrary to the November 2020 Counsel opinion which considers that the scheme "*will be read spatially as forming an expansion to the built up area of Whaley Bridge*" and is clearly a matter of planning judgment. In addition, the proposal would be considered as an insensitive addition to the existing site features and the character of the site. In particular, the proposed level changes, individual driveways and retaining walls would have a significant and detrimental landscape impact at a local level. The site's distinctive character and placemaking qualities would be destroyed by the proposed development, which would be viewed as overly dominant within this woodland setting and would not relate well to the suburban streets to the east of the site. The preference for site redevelopment would be for the retention and renovation / reuse of the main building rather than the proposed development of a linear positioning of 'town' houses. In this way, the existing landscape setting and overall character of the site could be appropriately preserved.

7.39 In these circumstances, the scheme would not be well related to the existing pattern of development and surrounding land uses or be of an appropriate scale for this aspect of the Whaley Bridge settlement contrary to LP Policies S1, S2, S6, EQ3 and H1 in particular. In addition, the scheme would constitute poor design and fails to understand the site's defining characteristics also contrary to LP Policies EQ2, EQ6 and EQ9 in particular, the High Peak Design Guide 2018, the Landscape Character SPD and the NPPF.

Arboricultural Impact

7.40 As highlighted above, LP EQ9 'Trees, woodlands and hedgerows' states that the Council "*requires that existing woodlands, healthy mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss*".

7.41 The site is partially covered by a DCC TPO Walker Brow (Tree Preservation Order) as highlighted by the Council's Arboricultural Officer. A temporary TPO had also been served on the wider application site as is detailed above. Although it has been decided not to recommend that the TPO is made permanent at this time as all of the most mature trees impacted by the scheme would be protected by the County TPO.

7.42 Previously the Arboricultural Officer commented that insufficient information had been provided to assess the scheme including tree root protection both from plots and damage from level changes. Concern was raised that the substantial engineering of the site would be detrimental to the trees on site and would not be overcome by the suggested tree replanting scheme consisting of short lived and insufficiently varied species to provide adequate replacement in these regards. Such concerns were also raised by the County Landscape Officer highlighting that the submitted tree survey concentrated on existing trees to the south and east of the site, but did not include trees to the northeast of the site where most development is proposed. Furthermore, the tree planting as shown on the Landscape Works Plan was mostly of small ornamental species contrary to the existing character of the site and therefore contrary to both tree protection and landscape based policy.

7.43 The applicant submitted draft tree reports to the Council's Arboricultural Officer on the 30th October 2020, which were considered in her comments of the 03.11.20 as detailed above and as reported on the November Update Sheet. Issues are summarised as follows:

- The location of Plots 1 and 2 have the most significant impact on trees, to accommodate these plots 4 trees T14 to T17 would have to be removed, however, on balance sustainable retention may be limited by their close proximity to existing built structures. Any loss would need to be mitigated by replacement planting.
- There are concerns about the proximity of the proposed dwellings, particularly Plot 1 to the mature specimen beech T13 of high amenity value, which would be located about 13m from the proposed gable end of Plot 1 causing some encroachment of the RPA (Root Protection

Area). There is also an elevated risk potential by placing a residential dwelling within the fall zone of this tree.

- Plots 1 and 2 would have modest gardens areas and back on to the protected woodland. As a result there is likely to be shading issues as this garden would face the northwest. Together with both trees surrounding the house and the built form itself would significantly shade these rear gardens with potential for ongoing conflict and premature tree loss.
- The proposed new garage and hard surfacing access road encroaches into the rooting area of the mature specimen beech tree T27 with potential for ongoing conflict and premature tree loss.

7.44 The landscaping proposals consist of amenity planting within the red edge of the development scheme with woodland / other planting and management within the blue line area to the northwest of the site to compensate for tree loss. The site red edge landscaping can be conditioned to agree a suitable scheme as can mitigation / management within the blue land. Ideally, the woodland immediately to the southwest of the site should be included as blue land to form a comprehensive woodland planting mitigation strategy for the scheme.

7.45 In summary, the matter of tree loss remains finely balanced and an amendment to the layout to improve the cramped relationship of Plots 1 and 2 would be preferable. Resultant amenity issues are discussed within the relevant section below. On balance therefore the scheme would accord with LP EQ9 in particular subject to the imposition of appropriate planning conditions to secure site landscaping and mitigation / management.

Amenity

7.46 LP Policy EQ6 'Design and Place Making' also stipulates that development should achieve a satisfactory relationship to adjacent development and should not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing or other adverse impacts on local character and amenity. Similarly NPPF para 137(f) requires a high standard of amenity for existing and future users'. The Council's Residential Design SPD provides particular guidance on amenity and privacy issues.

7.47 There would be sufficient space between the scheme properties to safeguard privacy standards maintain in respect of neighbouring residential development with a good level of amenity space for the majority of plots.

7.48 On matters of overshadowing, the guidance states that this "*can be particularly important in tall developments and in laying out external amenity spaces, which should avoid shady (and north facing) locations*". For Plots 1 and 2, the site plan and section information both serve to demonstrate that an inadequate and limited rear amenity space would be provided in view of site constraints. The proposed retaining walls with tree embankment above, together with orientation and scheme design / layout would result in overbearing and shading impacts to an unacceptable level of amenity to be enjoyed by the future occupiers of Plots 1 and 2 as confirmed by the Council's Arboricultural Officer above.

7.49 The matter of private amenity space has been challenged by the November Counsel Opinion stating “ *Policy EQ6 makes no express reference to private amenity space, less still any standards that must be applied. There can therefore be no breach of policy EQ6. Similarly, I have read the Residential Design SPD and cannot find any measurable standards for gardens (front or rear). There is no breach of the SPD*”.

7.50 As reported within the November Update Sheet, officers responded as follows: “*It is acknowledged that the Council does not have a specific standards for private amenity space. However, Policy EQ6 and the NPPF require a good standard of residential amenity to be provided in all new developments for future residents. The lack of a specific standard in policy means that it becomes a matter of officer judgement. Elsewhere in the opinion Counsel states that ‘There are various issues, such as design and layout, in the most recent OR which call principally for the application of planning judgement. I do not propose to offer a view on those matters since they fall outside the scope of my expertise’. This matter should be considered in the same way*”.

7.51 The applicant has also stated that the “*size of the amenity space related to the dwellings reflects that which can be found in the surrounding area and which was deemed acceptable at Reservoir Road. Notwithstanding that point, the location gives immediate access to the surrounding countryside and there would be no adverse consequence of approving the development as currently set out*”. Clearly, proposals are to be judged on their individual merits and accessibility to the countryside would not overcome the amenity harm as is set out above.

7.52 Accordingly, the proposal is contrary to LP Policy EQ6 and the NPPF, specifically in regard to scheme Plots 1 and 2.

Nature Conservation

7.53 LP Policy EQ5 states that the biodiversity and geological resources of the Plan Area and its surroundings will be conserved and where possible enhanced by ensuring that development proposals will not result in significant harm to biodiversity or geodiversity interests.

7.54 A Phase 1 Habitat Report (April 2020) and Bat Survey Report (August 2020) form part of the scheme submission. Of relevance, DWT (Derbyshire Wildlife Trust) advises that a license will be required for the loss of roosts for pipistrelle bats, but mitigation measures in the provided report are suitable. If bat boxes were installed as part of the Woodland Management Plan, DWT state that biodiversity net gain could be achieved to meet with LP Policy EQ5. A Construction Environmental Method Statement (CEMP) is also advised as a further planning condition.

7.55 The site falls within the Impact Risk Zone (IRZ) for Toddbrook Reservoir SSSI (Site of Special Scientific Interest). The identified risks for this SSSI include “all planning applications (except householder)” necessitating a consultation with Natural England. Natural England considers that the

proposed development will not damage or destroy the interest features for which the Toddbrook Reservoir SSSI has been notified and therefore has no objections to the scheme.

7.56 Consequently the proposal is in accordance with LP Policy EQ5 and the NPPF.

Highway Safety

7.57 LP Policy CF6 seeks to ensure that new development can be safely accessed in a sustainable manner and minimise the need to travel, particularly by unsustainable modes. Paragraph 109 of the NPPF advises that *“Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.

7.58 The scheme is regarded as having reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities. No objections have been raised by County Highways due to the similar vehicle usage of this proposed scheme with the previously approved one. Notwithstanding the debate on the site’s fallback position, it is unlikely that a reason for reason would be sustained on the grounds of the proposed intensification of the site on highway grounds.

7.59 County Highways require a shared driveway corridor with a minimum of 7.5m width supported by a swept path analysis to allow for local refuse collection. Alliance Waste further advice that bin collection points and bin storage for individual properties should also be identified. Furthermore, a dropped kerb arrangement rather than carriageway markings at the access point off Macclesfield Road is also recommended.

7.60 Each dwelling is served by a drive and garage, providing for adequate off-street parking requirements and these should be suitably secured for such purposes by condition.

7.61 From a highways and waste collection perspective, these matters could be dealt with by suitably worded planning conditions should Members be minded to approve the scheme. Accordingly, the proposal is in accordance with LP Policy CF6 and the NPPF and with the relevant aspects of LP Policy H1.

Pollution and Flood Risk

7.62 Of relevance, LP Policy EQ10 seeks to protect people and the environment from unsafe and polluted environments, requiring mitigation if necessary. The Council’s Environmental Health consultation comments confirm no objections to the scheme subject to the control of construction and demolition to protect neighbour amenity at nearby noise sensitive properties at the development stage and also the submission of a contamination land risk assessment given the proposed residential end use of the site being sensitive to the presence of land contamination.

7.63 LP Policy EQ11 discusses that the Council will support development proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere, where this is viable and compatible with other policies aimed at achieving sustainable patterns of development. The site is not in a flood risk zone. United Utilities have no objections subject to conditions requiring a surface water / foul water drainage scheme and a soil survey at a more detailed design stage. These matters could be readily controlled via suitably worded conditions should Members be minded to approve the scheme.

7.64 In these regards, the local and strategic infrastructure would be able to meet the additional requirements arising from the development of this scale to accord with the relevant aspects of LP Policy H1. Furthermore, the scheme would achieve compliance with the terms of LP Policies EQ10 and EQ11 and the NPPF regarding environmental and local flood risk matters.

The Fallback Position

7.65 The September Counsel Opinion concluded that the applicant benefits from a fallback position in the following terms: *“(1) The main building can lawfully be used as a single dwellinghouse or as 7no or 5no apartments (depending upon whether the 2010 or 2013 planning permission is relied upon); (2) The former classroom block can be used as a dwellinghouse given its conversion and (3) The erection of 2no semi-detached dwellings can lawfully be completed since the former gymnasium was demolished in accordance with the 2013 planning permission”.*

7.66 In response, the November officer report stated the following: *“Turning to the fallback position regarding the 2009 and 2013 permissions. Officers have requested the applicant to evidence in detail the works undertaken to implement either of these schemes including the classroom ‘conversion’. Notwithstanding this, however, even if a robust fallback position can be established for the 2009 and 2013 schemes (i.e. conversion of existing buildings without significant engineering works can be demonstrated), it is clear that the proposed scheme is fundamentally different. As such it should be assessed on its own merits, including against the provisions of Policy H1. Accordingly it is not considered that the fallback position carries any weight as a material consideration in the planning balance or sets any precedent to overcome such LP Policy H1 objections”.*

7.67 The November Counsel Opinion raised the following issues regarding the officer assessment of the fallback position. This included: the lawful use of the site i.e. children’s home or other use, the disregard of the fallback position as a material consideration without scheme comparison and the site should be treated as a policy designation, including the majority of it being considered as previously developed land. This opinion references the applicant’s submitted correspondence to the Council dated the 30th October 2020 to support the position that there is a highly material fallback position supporting the scheme. These matters will be discussed below.

HPK/2008/0069 - Change Of Use Of Taxal Edge From Boarding Hostel And Associated Ancillary Residential Accommodation To Use As Single Family Dwelling. APPROVED 28/03/2008.

7.68 In relation to this permission, the D&A (Design & Access) states that: *“In March 2008, planning permission was granted for a change of use from a children’s home to a single dwelling (LPA ref: HPK/2008/0069). The building has been used as single dwelling since then”*. The September Counsel Opinion states that: *“Mr Butler has been living in Taxal Edge as a dwelling since 2008 and that he has been paying Council Tax on the property since then”*.

7.69 On this basis, therefore, it appears that the building known as Taxal Edge can lawfully be used for residential purposes as a single dwelling house and this position is not disputed. Clearly, the majority of the planning unit defined by the 0.8 ha redline site area would not constitute residential curtilage to this dwelling. Furthermore, only the buildings, together with its associated access / hardstanding broadly concentrated within the central portion of the site would constitute previously developed land. This can be illustrated by the Location Plan ref. HPK/2008/0069 and the aerial photographs below. The additional hardstanding as shown in the 2018 image is the subject of a separate Planning Enforcement investigation. With regard to tree loss, these matters are discussed within the relevant consultation section above and are also referenced below.

Aerial Photograph 2011

Aerial Photograph 2018

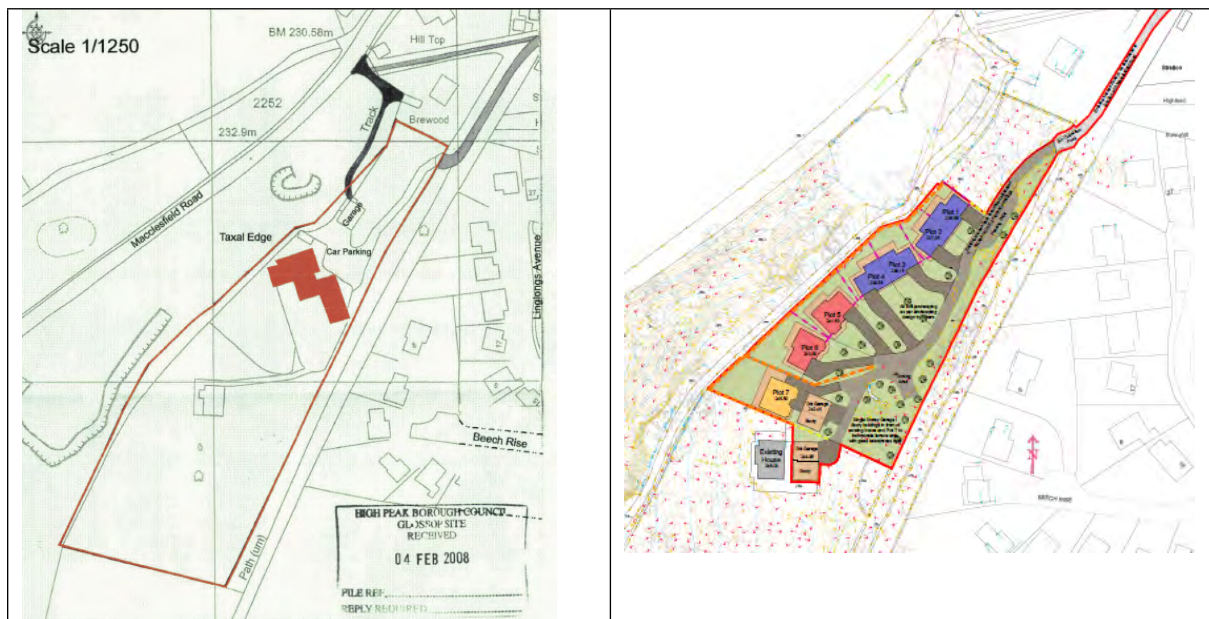


7.70 When comparing planning permission ref. HPK/2008/0069, the ‘fallback position’, the current scheme proposes new build residential development within the open countryside designated as Settled Valley Pastures. This is principally in relation to detached Plots 5, 6, 7, including a detached garage / study with terrace to plot 7, individual driveways and associated access / turning head broadly located within a wooded area of the site. This situation is clearly contrary to the November Counsel opinion, which considered that

“the majority of the site should be treated as previously developed land” yet officers are unclear how this conclusion has been arrived at.

Location Plan ref HPK/2008/0069

Site Plan ref. HPK/2020/0301



7.71 Officers have expressed their preference for the retention and renovation / reuse of the main building as was secured by the 2009 and 2013 permissions. In this way, the existing landscape setting and overall character of the site could be preserved. As opposed to the proposed scheme for the linear positioning of ‘town’ houses engineered into the rear of the site with resultant tree loss. The scheme therefore to demolish the large detached Edwardian Villa and its garage with a wholesale site redevelopment of 7 new build dwellings, together with outbuildings would result in development that would not be well related with the existing pattern of development / surrounding land uses leading to a prominent intrusion into the countryside and resultant landscape harm.

HPK/2009/0689 - Conversion Of Single Dwelling House To Provide Seven Apartments And Conversion Of Classroom Block And Disused Garage Into Two Detached Houses. APPROVED 29/03/2010

Site Plan ref HPK/2009/0689

Site Plan ref. HPK/2020/0301



7.72 Whilst the 2009 and 2013 consents have not yet been fully investigated by the Planning Enforcement Team, the September Counsel Opinion highlighted: “... the existence of the 2010 and 2013 planning permissions are material considerations in their own right. The Council considered in 2010 and 2013 that the use of the site for residential development (including new buildings) was acceptable in planning terms”.

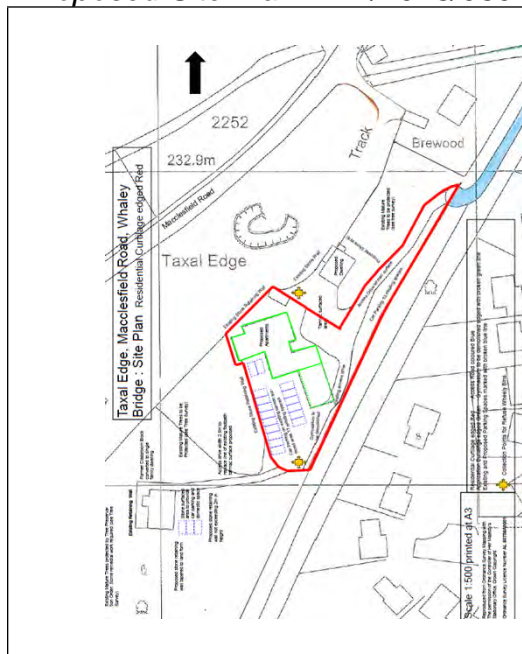
7.73 Firstly, these decisions predate the current development plan adopted in 2016. LP Policy EQ3 ‘Rural Development’ categorises those forms of residential development permitted outside the defined settlement boundaries and site allocations, which would meet with LP Policy H1 ‘Location of New Housing Development’. The application scheme would be contrary to such principle policies as is discussed within the relevant section above. Of note also, the classroom conversion appears as different footprint on the proposal plan for the current scheme and the aerial photograph shows an enlarged site area.

7.74 Notwithstanding this, for the 2009 consent, the officer delegated report stated: “The development sits within open countryside and as such is covered by policy OC3. The works will involve minimal physical changes as conversion is possible without material physical alteration including existing parking and landscaping. In this regard the works can be considered to be an appropriate form of development as it will enable a reuse of the building without impact on the wider landscape”. In these regards, the officer report clearly set out the in principle policy support for the approved scheme.

HPK/2013/0503 - Proposed Conversion Of Taxal Edge 184 Macclesfield Road To Form 5 Apartments And To Construct 2 New Semi Detached

**Houses In The Area Of The Existing Gymnasium. APPROVED
25/11/2013**

Proposed Site Plan HPK/2013/0301



Site Plan ref. HPK/2020/0301



7.75 For the 2013 consent, the demolition of the gymnasium and proposed replacement with a traditional pair of semi-detached properties on this part of the site was considered to *“improve the form of the development and the visual qualities of the site without causing undue harm to the landscape characteristics of the locality”*. The scheme was determined in the context of a 5-year under supply of housing, however, did not propose an intensification of dwelling numbers as per the officer delegated report.

7.76 The September Counsel Opinion has drawn attention to comparative site sections as shown in drawing 411179/25/P1 stating that: *“These sections compare the outline of the approved scheme (in 2010) and the proposed development. Whilst I appreciate that this comparative exercise and the conclusions to be drawn from it depend upon planning judgement, I would make the following points: a. In general, the proposed development sits lower than the approved development, reducing ridge heights and minimising the visual impact on the wider countryside; b. In each of the sections the approved scheme appears bulkier and more dominant than the proposed scheme. As such, the notion that the proposed development would encroach into and erode the open countryside appears fallacious when compared to the fallback position”*.

7.77 Officers have clearly set out above, which elements of the site are considered to be previously developed and have explained their preference for the retention and renovation / reuse of the main building as was secured by the 2009 and 2013 permissions. Accordingly, the scheme proposal to demolish the large detached Edwardian Villa and its garage with a wholesale site redevelopment of 7 new build dwellings, together with outbuildings would result in development that would not be well related with the existing pattern of development / surrounding land uses leading to a prominent intrusion into

the countryside and resultant landscape harm contrary to LP Policies S1, S6, EQ2, EQ3 EQ6 and H1, the High Peak Design Guide, the Landscape Character SPD and the NPPF.

Other Matters

7.78 Contrary to the Applicant's November Counsel opinion regarding 'consistency in decision making', the earlier deferrals by Members have been to allow the consideration of the applicant's points by Officers in an attempt to reach common ground and the report has been amended accordingly. This will result in a single decision and therefore there is no inconsistency.

7.79 Counsel further refers to NPPF para 38 in that decision takers should *"work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area"*, stating that *"the officer in the present case does not seem to have followed that clear guidance and appears intent on identifying problems rather than discussing solutions"*.

7.80 Officers have been clear that restoration of the building with a potential value as a non-designated heritage asset despite the unsympathetic alterations is viewed as the preferred development approach and without the extensive remodelling of the site or introduction of extensive hard surfaces with existing trees and landscape layout remaining largely unaffected. Furthermore, officers have met with the applicant and agent to discuss a way forward framed focussing on the elements of the site considered as previously developed. Accordingly para.38 has been followed.

8. PLANNING BALANCE & CONCLUSIONS

8.1 The scheme would not be well related with the existing pattern of development and surrounding land uses or be of an appropriate scale for this aspect of the Whaley Bridge settlement. In addition, the scheme would constitute poor design and fails to understand the site's defining characteristics. Furthermore, the scheme's design / layout would result in overbearing and shading impacts to an unacceptable level of amenity to be enjoyed by the future occupiers of Plots 1 and 2.

8.2 Matters of housing mix will be reported within the update sheet.

8.3 Overall, the scheme proposal does not constitute a sustainable form of development in line with LP Policies S1 and S1a and NPPF paragraph 11. As well, it contravenes relevant local development plan policies and other material considerations which include the NPPF.

8.4 In accordance with NPPF paragraph 11, the application is thereby recommended for refusal.

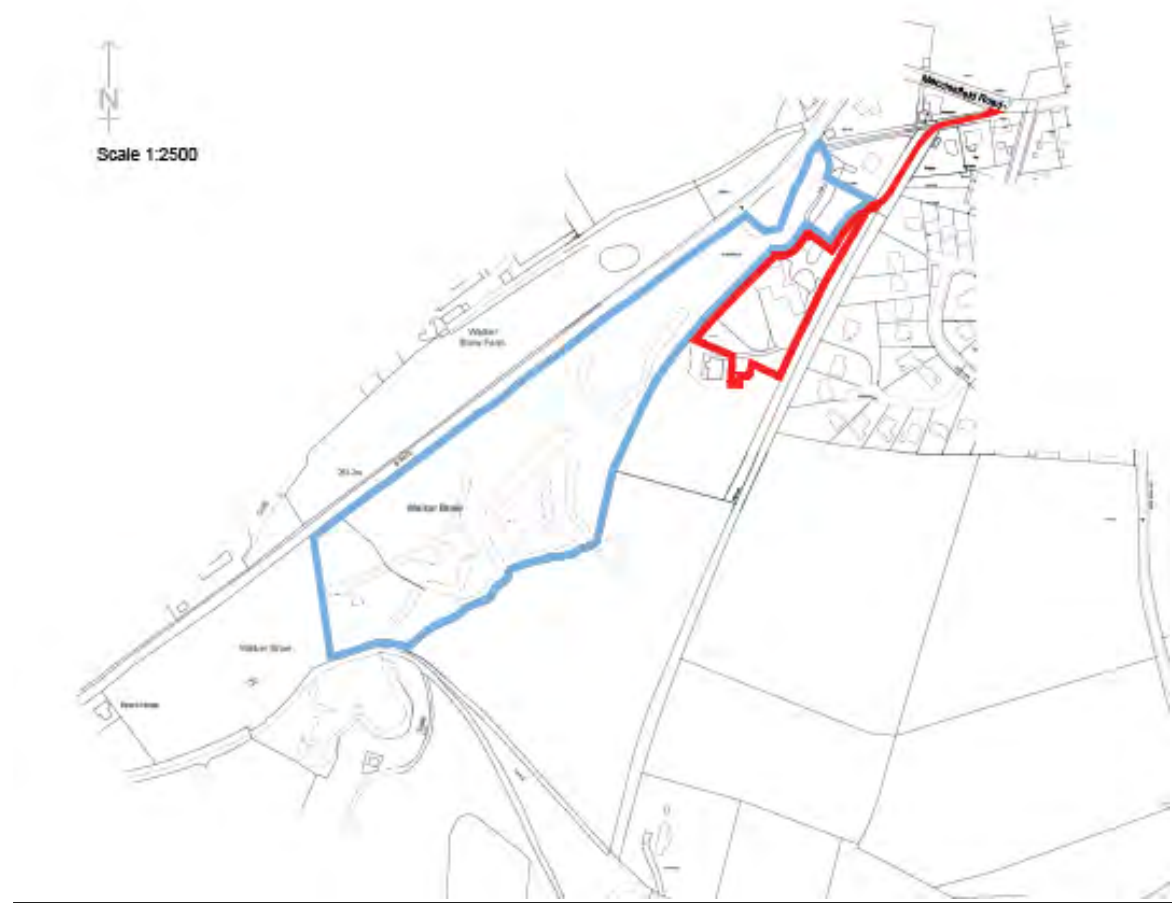
9. RECOMMENDATIONS

- A. That DELEGATED AUTHORITY be granted to the Head of Development Services and the Chair of the Development Control Committee to add additional reasons for refusal if necessary with regard to outstanding Peak District National Park and planning permission be REFUSED as follows:**
- 1. The scheme would not be well related with the existing pattern of development and surrounding land uses or be of an appropriate scale for this aspect of the Whaley Bridge settlement. In addition, the scheme would constitute poor design and fails to understand the site's defining characteristics. Furthermore, the scheme's design / layout would result in overbearing and shading impacts to an unacceptable level of amenity to be enjoyed by the future occupiers of Plots 1 and 2. The development therefore fails to comply with Policies S1, S1a, S2, S6, H1, EQ2, EQ3, EQ6 and EQ9 of the Adopted High Peak Local Plan, the Adopted High Peak Design Guide, the Adopted Residential Design Guide and the Adopted Landscape Character Assessment Supplementary Planning Document 2006 and the National Planning Policy Framework.**
- B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

Informative(s)

- 1. Prior to the determination of the application the Council advised the applicant that the principle of such development is unsustainable and did not conform with the provisions of the NPPF. It is considered that the applicant is unable to overcome such principle concerns and thus no amendments to the application were requested.**

Site Plan



Appendix 3C

High Peak Borough Council



DEVELOPMENT CONTROL COMMITTEE AGENDA

Date: Monday, 19 April 2021

Time: 1.30 pm

Venue: Virtual Meeting

You can view the agenda online by using a smart phone camera and scanning the code below:



Please find below an additional report which was unavailable when the agenda was published.

5. Update Sheet (**Pages 3 - 8**)

MARK TRILLO
EXECUTIVE DIRECTOR & MONITORING OFFICER

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19th APRIL 2021

HPBC DEVELOPMENT CONTROL COMMITTEE

UPDATE SHEET

HPK/2020/0301 – Taxal Edge, Whaley Bridge

HPBC Case Officer:

To address matters raised in the circulation of correspondence submitted by the applicant to Members and the case officer on the 15th April 2021 (and available in full on the public file), officers respond as follows:

As stated within the officer report, the applicant submitted a completed Notice of intention to submit and appeal in respect of planning application reference HPK/2020/0301 at Taxal Edge, Macclesfield Road, Whaley Bridge to the council on the 25th March 2021.

Subsequently, the Council was copied into the correspondence from the applicant to the Planning Inspectorate of the submission of the planning appeal via The Planning Inspectorate Appeals Casework Portal on the 8th April 2021.

Contrary to the applicant's view, the submitted appeal has not yet been validated by the Planning Inspector and until it is, the Local Planning Authority is able to issue to a decision to either refuse or approval the application if Members are minded to do so. If the appeal is validated before officers are able to issue a decision notice then we would not be able to issue the refusal of planning permission, but that it would serve as the basis on which the Council would defend the appeal.

Whilst the applicant has requested a public inquiry, this has not yet been confirmed by the Planning Inspectorate. Accordingly, the Planning Inspectorate have invited comments from the Council and will make their decision based on the published criteria and will take account of the views expressed by both the appellant and the local planning authority. The Council consider that a full and fair hearing would be achieved through either written representations or an informal hearing and there are no complex matters of fact, policy or law.

Clearly, there is a difference in approach to the application of Local Plan Policy. The Council have amended their stance on a number of matters since receipt of the application, quite properly following consideration of representations and further information submitted by the applicant during the course of the application process. The Council's view is clearly set out in the committee report due to be considered by planning committee on the 19th April. Whereby the fallback position is dealt with comprehensively in the officer report to planning committee on the 19th April 2021.

Whilst the applicant refers to application of costs, Officers consider that their behaviour has been reasonable and matters raised relate to planning judgement underpinned by the Adopted Local Plan .

The 'Winter Image 2020' provided within this submission clearly shows that development would neither adjoin the built up area boundary nor be well related with the existing pattern of development and surrounding land uses or be of an appropriate scale for the settlement. As well, it is considered that it would lead to a prominent intrusion into the countryside and have an adverse impact on its character.

The enforcement investigations are relevant to the current application in that a garage is sought in relation to the 'classroom conversion'. If it is found that it relates to a dwelling that is so far out of kilter with the consent that in fact it represents a completely new build altogether then the scheme as a consequence would be seeking a domestic outbuilding, which does not relate to a primary use and therefore should be refused on that basis alone. At this time no decision regarding potential enforcement in relation to the 'conversion' has been made but if the building is considered to an unauthorised structure then this part of the proposed development would constitute inappropriate development comprising an outbuilding serving an unauthorised structure. If members agree with the officers recommendation then this matter need not be considered further, if members wish to approve the application then it is suggested that delegated authority be given to the Head of Development Services and Chair of Development Control Committee to take such steps as are appropriate following further advice from the Planning Enforcement Officer.

Curtilage defines an area of land in relation to a building and not a use of land. There is no all-encompassing, authoritative definition of the term curtilage. The Technical Guidance (Permitted Development for Householders: Technical Guidance 2019) defines "curtilage" for Part 1 purposes as land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.

Accordingly, officers consider that the protected wooded area as identified on the previously approved plans in related to the planning permissions 2009 and 2013 would not form curtilage to the host building Taxal Lodge where it is proposed to site plots 5, 6 and 7 and therefore cannot form previously developed land.

Officer Report Corrections and Additions:

Section 6, NPPF 2018, should be February 2019

Paragraph 7.13 includes the additional wording as underlined "*Of note, the proposed site plan for the 2009 and 2013 approved schemes shows a different footprint for the 'classroom conversion' to dwelling and a larger planning unit on the application proposal plan which falls outside of the red edge and is subject to a separate Planning Enforcement Investigation as stated above*".

s11A National Parks and Access to the Countryside Act 1949:

11A Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated

(2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority [that's us] shall have regard to the purposes specified in subsection (1) of section five of this Act [ie conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.] and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

The Peak District National Park boundary lies c.260 metres at its nearest point from the application site in the direction of Walker Brow to the southwest. The Peak District National Park Authority has been consulted on the scheme, however, has not responded to the Council to confirm its views on the proposed development. Despite this and as set out above, the Council has a duty to have regard to the purposes for which National Parks are designated as per s11A of the National Parks and Access to the Countryside Act 1949 detailed above. In consideration of these purposes, therefore, and subject to any submissions that may be received from the Peak Park, officers consider that the scheme would not affect the land in the National Park, including conserving and enhancing its natural beauty. Given the application has been with the Council for some time it is not proposed to wait for comments but the council would defer to the views of the Peak District National Park if any were received, therefore the recommendation gives delegated authority to add additional reasons for refusal if necessary with regard to outstanding Peak District National Park comments if any are received before decision is issued

HPBC Planning Policy:

Housing Mix

Policy H3 New Housing Development seeks to ensure an appropriate range and mix of new homes are provided including affordable housing. It states *"The Council will require all new residential development to address the housing needs of local people by..."*

a) Providing affordable housing in line with Policy H4 (this policy details criteria regarding affordable housing which include references to site size and number of dwellings)

"b) Providing a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs, based on evidence from the Strategic Housing Market Assessment or successor documents."

The policy clearly states it applies to all residential development.

The 2014 SHMA recommended a rebalancing of stock away small terraced housing and 3-bed properties towards 2-bed and stock to support the elderly population. Below is the property size and type recommended by the SHMA and the ward based census data with a calculation of the percentages of properties for Whaley Bridge ward. There is a shortfall in 1 and 2 bedroom properties and an excess of 4 and 5+ bedroom properties. Developments should aim to bring the housing stock closer to

the SHMA recommendations. However the SHMA recommended that a flexible approach should be taken to applying its recommendations for housing mix to take account of viability issues and local provision.

The Inspector in recent appeal decision on Bingswood Road, Whaley Bridge ref. HPK/2017/0254 considered the proposed development would be contrary to H3 in respect of housing mix as there was no firm evidence presented to support a housing mix which excludes 2 bedroom units which would deviate from the identified need in the SHMA. The Inspector acknowledged the SHMA indicated its requirements should not be rigidly applied and the housing requirements may have changed since 2014.

Consideration needs to be given as whether the evidence currently present by the applicant is sufficient to justify a housing mix that is contrary to the SHMA. The SHMA whilst it was prepared in 2014 is a comprehensive evidence based assessment of housing need in the Borough.

It is noted that the proposed development is for a modest number of dwellings 7 in total and the impact the development would have on the overall housing mix in Whaley Bridge is therefore likely to be limited.

2011 census merged ward	All categories: Number of bedrooms	1-bed	2-bed	3-bed	4-bed	5 or more bed
Whaley Bridge	2794	214	823	1024	535	198
% of housing stock	100%	7.7	29.5	36.6	19.1	7.1

SHMA recommendations	Property type and size
1-bed	10%
2-bed	45%
3-bed	35%
4-bed	10%
Semi-detached House	30%
Detached House	25%
Terraced House	15%
Flat / Maisonette	10%
Bedsit / Studio / Room Only	0%
Bungalow / Elderly Housing	20%
Caravan or temporary structure	0%

Comments submitted by the Planning Policy team in 2017 in relation to the Linglongs reserved matters application also highlighted concerns regarding the mix. However, it is understood that it was conceded that this could not be addressed as it had not been secured at the outline stage. As such, it is not the case that the same evidence now submitted to the Council in response to the application in question was supported previously.

The policy (H3) is clear that the housing mix requirements will be based on factors including the SHMA (Strategic Housing Market Assessment) or successor documents. There is no successor document and so the SHMA remains the most up to date and comprehensive assessment of need. Nevertheless, the scale of the development should be acknowledged and the information required in support of the application should be proportionate. The evidence provided by the applicant merely reflects likely market demand and local character rather than actual housing need but it would not be reasonable to expect the applicant to prepare a document of comparable detail to the SHMA for the scheme of this size.

Furthermore, even if the scheme were to rigidly adhere to the SHMA mix (which is not required by policy), 10% of the development would still comprise of 4/4+ bedroom dwellings. Given the scale of development proposed, the potential deficit of smaller properties arising from the scheme is limited when compared with the existing housing stock in the town and is unlikely to cause significant harm to the overall mix in isolation.

In view of the Planning Policy comments received, Officers, on balance, do not consider that the issues raised could be substantiated as a standalone reason for refusal in respect of Local Plan Policy H3 'New Housing Development'.

As a consequence, the recommendation to refuse the scheme as stated within the officer report stands.

Neighbour Representation:

Two separate representations have been received from the same objector, which are available in full on the public file on the Council's website and summarised as follows:

- Reference to the disclosure of the Counsel opinions as an intimidating tactic which rely heavily on the view of the applicant's agent without visiting the site
- It is alleged that Taxal Edge is being used as a House of Multiple Occupation whereby no planning permission has been granted.
- The Application falls outside the criteria to be adopted by the Council and should be refused.
- The reasons for refusing the application for 2 rather than 7 dwellings in 2015 remain valid to the Application.
- The houses in the Beech Rise Development will be overlooked if the development proceeds in its current form and there will be a significant invasion of their privacy
- The current access is neither suitable or owned by the Applicant and will present a serious hazard and issues to the traffic on Macclesfield Road.
- Disputes rights of access to Taxal Edge making reference to unauthorised works in relation to the widening of the access.
- Intensification of the public right of way used by walkers and an assumption that the school has access.
- There is no provision for affordable housing. This type of accommodation is not needed in the Whaley Bridge area where there is already a surplus of 4/5 bed accommodation and will only be bought by people from outside the area.

- The Application pays no/insufficient attention to the local wildlife.
- Taxal Edge was acquired by developers for profit. They took a commercial risk.
- They cannot comply with the Local Plan and should not be able to build beyond the footprint of the current location of the Taxal Edge building.
- Any current trend that there should be a presumption in favour of granting planning permission is more than outweighed by the above considerations.
- The Application should be refused and I will want to make representations to the Development Control Committee.

HPK/2021/0006 – Land across the road from 3 Silk Hill, Buxworth, Derbyshire

Officer Response: The applicant has submitted a supporting statement setting out the ongoing and intended activities, including small-scale horticulture, which the building is and will be used for, illustrated by more recent photos from the site. This is available on the webpage for the application.

HPK/2021/0040 – 142 Brown Edge Road, Buxton

No updates to report.

Appendix 4A

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15 April 2021

EP ref: 19-429

Rawdon Gascoigne
T: 01625 433 881
rarwdongascoigne@emeryplanning.com

Dear Councillor

Re: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

We write in relation to the above application for demolition of the existing building known as "Taxal Edge" and the detached garage building and the erection of 7 no. dwellings, which is due to be presented to the meeting of the Development Control Committee on 19 April 2021.

Determination of the application was deferred at the November meeting of the Development Control Committee to enable members to consider the written opinion of our Counsel, Mr Jonathan Easton and various other additional information that had been submitted by the applicant. That also followed a previous deferral for similar reasons.

Following delays in the application being referred back to the development control committee, an appeal against non-determination was lodged. The application has subsequently been placed on the committee agenda. However, in light of the appeal, members will be required to set out what their resolution would have been if the application had proceeded to determination.

If members are minded to overturn the officer's recommendation, we can confirm that the applicant is likely to resubmit the application. If a resubmission were approved, it would enable the current appeal to be withdrawn and would avoid the need for a public inquiry. As per the advice of counsel, if the appeal progresses, the applicant is likely to seek an award of costs as the officer's assessment of the application remains fundamentally flawed as it has not changed significantly since the submissions that were made in November. The reasons for this are set out below.

Counsel advised that the officer's assessment in the November committee report was deeply flawed as amongst other things, it failed to take into account clear and convincing evidence that the land could be used for residential purposes. Although a new officer report has been prepared, which responds to some of the points within the written opinion, the assessment still fails to grapple with and address a number of the key issues as set out below.

Compliance with Policy H 1

The case officer acknowledges that the principle of the development is acceptable subject to compliance with local plan policy H 1 but suggests that the development would not fulfil any of the relevant policy criteria. This is not the case.

The second criterion of Policy H1 (which is not cited in full within the committee report) states that the council will ensure provision is made for housing through a number of measures, including:

"Promoting the effective reuse of land by encouraging housing development including redevelopment, infill, conversion of existing dwellings and the change of use of existing buildings to housing, on all sites suitable for that purpose"

Although the committee report asserts that only part of the site can be considered as previously developed land and that plots 5, 6 and 7 fall outside of the previously developed area, the definition of previously developed land within the Framework includes:

"Land which is or was occupied by a permanent structure, including the curtilage of the developed land..."

The land on which these plots are situated forms part of the approved curtilage for the dwelling authorised by planning permission reference HPK/2008/0069, which has been occupied since 2008, and prior to that, was part of the planning unit for the **children's home**/used for purposes incidental to it. It is not agricultural land and is clearly part and parcel of a previously developed site.

While some of the plots include areas that are not currently occupied by buildings, that does not prevent the land from being classified as previously developed. Furthermore, the second bullet point of H1 is also permissive of infill development. Therefore, there can be no question that the principle of development is acceptable under the second bullet of H1.

Notwithstanding this, the development also accords with all of the requirements in the final part of policy H1 which, provided the criteria are met, allows housing development in the countryside, including on greenfield sites.

In response to the written opinion of Jonathan Easton, the case officer cites two appeal decisions to support their view that the application site does not meet the relevant criteria as it does not adjoin the built up area boundary (and therefore that the position has changed since 2013, when the LPA considered that it did). However, in the first appeal decision, the inspector did not actually opine on whether an intervening road (or in the case of the current application, a path over which the applicant has access rights) would prevent a site from adjoining a settlement boundary. Furthermore, the second appeal decision actually **supports the written opinion of the applicant's counsel, in that it allows for a wider definition of 'adjoin', having regard to whether the site would be well related with the existing pattern of development (within the settlement) and whether it would lead to prominent intrusion into the countryside.**

Neither of the appeal decisions alter the manner in which the site falls to be assessed and it is wholly unclear why the officer considers that the introduction of Policy H 1 should lead to a stricter **assessment. As such, counsel's assertion that the officer report** was flawed, as it fails to have proper regard to the principle of consistency, remains valid. The site clearly adjoins the settlement boundary, as confirmed by officers in previous assessments at the site and meets all of the relevant criteria of the final part of H 1.

The case officer asserts conflict with H 1 on the grounds that the development would alter the existing pattern of development on the site itself. However H 1 is concerned with the location new housing

and the relevant part of the policy deals with the relationship of the site to the settlement and how it would be read upon completion. In this instance there can be no doubt that the site would be read as part of Whaley Bridge. The nature of the site and its containment by trees also means that the development could never appear as a prominent intrusion into the countryside, especially as the site is already developed and has extant planning permission for further development.

Notwithstanding the high-quality design, the containment of the site also means that the development would have no effect on the character and appearance of the surrounding countryside. The officer's focus on changes to the character and appearance of the site itself (which we consider would be positive at any rate), overlooks the fundamental point that H1 is permissive of development on greenfield sites, which by their very nature will always result in changes to character at site level. We consider that the photo montage images that have been forwarded to officers and are attached to this letter clearly demonstrate that the site would be seen as part of Whaley Bridge, would not be prominent and would reflect the character of development in the area. It would be a significant improvement over the existing.

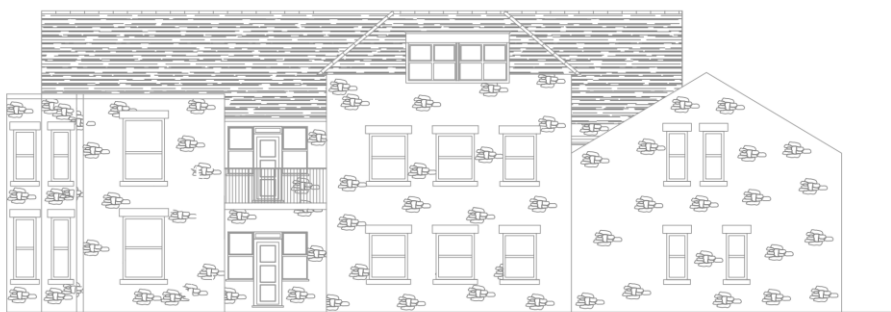
The fallback position

Although the current committee report now includes a section addressing the fallback position, consideration of the fallback is entirely absent from the landscape and urban design officers' assessments, which form the basis of the case officer's conclusions on character and appearance. The report also still fails to acknowledge what would be constructed if the current development is approved, including the fact that the 2013 planning permission also provides for level changes and retaining walls; that the proposed development would generally sit at a lower level and would be less dominant than the approved scheme (as shown the sites sections enclosed with this letter); that it would have higher standards of residential amenity than what has already been approved; and that that the quality of design in the current application is far superior to the approved development as shown below.

It should be stressed that the existing buildings at the site have not been identified by the council as non-designated heritage assets; that there is no heritage objection to the proposals; and that in spite of the officer's preference for retention of the existing main building, there is no suggestion that demolition of the building is in itself unacceptable or would warrant refusal of the application irrespective of what were to replace it. Indeed, it is our opinion that the removal of the existing building will actually lead to an enhancement of the site and lead to a beneficial change not solely related to the physical form of the building but to the circumstances around its previous use.

Extracts from approved elevations (including the existing building):





Proposed development:



Residential Amenity

As noted above, the proposed development would provide a better standard of accommodation and amenity for future residents than the fallback development. The scheme includes both front and rear gardens which are of a suitable size. Residents would have easy access to countryside walks and to public open space within Whaley Bridge. Although the case officer has recently raised concerns about shading to plots 1 and 2, these are in exactly the same location as a dwelling that was approved by the council in 2010 without any such concern. Again, this raises issues in relation to consistency in decision taking. Both properties would have adequate access to outdoor space and daylight.

Housing mix

The applicant has provided detailed commentary and evidence to support the proposed mix of housing, which shows that a reason for refusal on these grounds cannot be defended. Officers have been in receipt of this information for a number of weeks and, having had ample time to consider the details, are not currently suggesting that this should form part of the reason for refusal (albeit we understand this matter is still being reviewed). Notwithstanding this, the principles of how the housing mix has been addressed has previously been accepted by Officers on another site in Whaley Bridge.

Clarification off other matters

Members should be aware that comments regarding enforcement investigations for the converted classroom (adjacent to the site) are not relevant to consideration of this application. Notwithstanding that no breach of planning control has been established and that historic aerial

imagery shows the building to be in exactly the same location as it has always been, the dwelling is located outside of the red edge for the current application site and is in separate ownership. Any concerns the council have in relation to that building should be addressed through the proper channels and should not influence consideration of this application.

We are also advised that the access road has not been widened by the applicant as suggested in the committee report. Third parties have cut back vegetation which adjoined the track and may give the impression of a wider area and potholes have been filled for safety reasons. However, once again, these matters are not relevant to determination of the application.

Conclusion

For the reasons outlined above, the **officer's assessment of the application remains flawed** and has not addressed all of the shortcomings identified in the **barrister's opinions previously submitted**.

It remains the case the development complies with the requirements of the development plan and that when the fallback position is properly considered, there can be no question that the proposed reason for refusal falls away. This will be evidenced in detail through the current planning appeal.

The alternative is that members resolve to approve the development and in this event, a resubmission can be made, that if approved, would avoid the need to progress to a public inquiry.

Yours sincerely
Emery Planning

Rawdon Gascoigne

Rawdon Gascoigne BA (Hons), MRTPI
Director

Enc: Drone images showing the relationship of the site/development to the built up area
Site sections

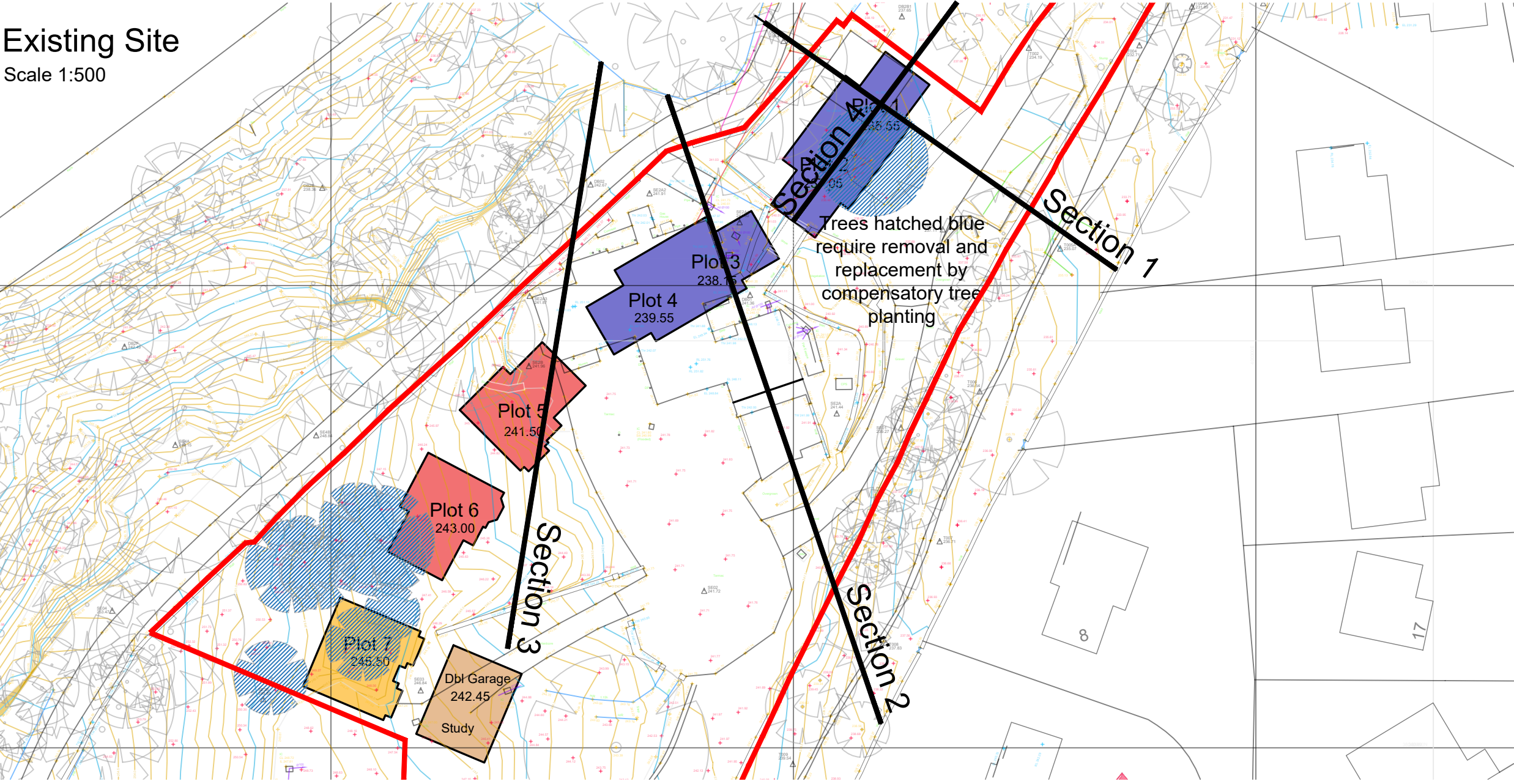


Winter Image, December 2020

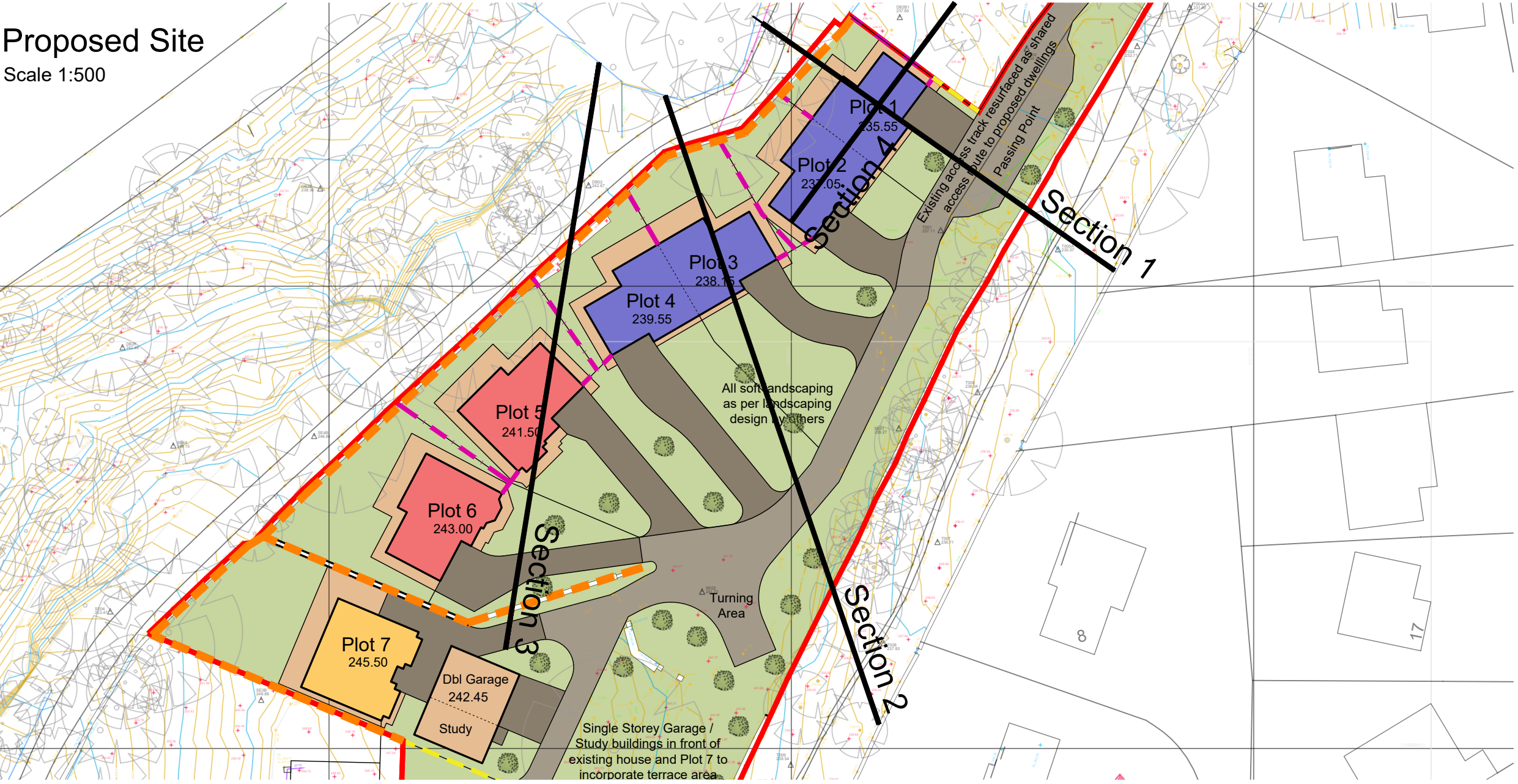


Barratt Homes Site

Existing Site
Scale 1:500



Proposed Site
Scale 1:500

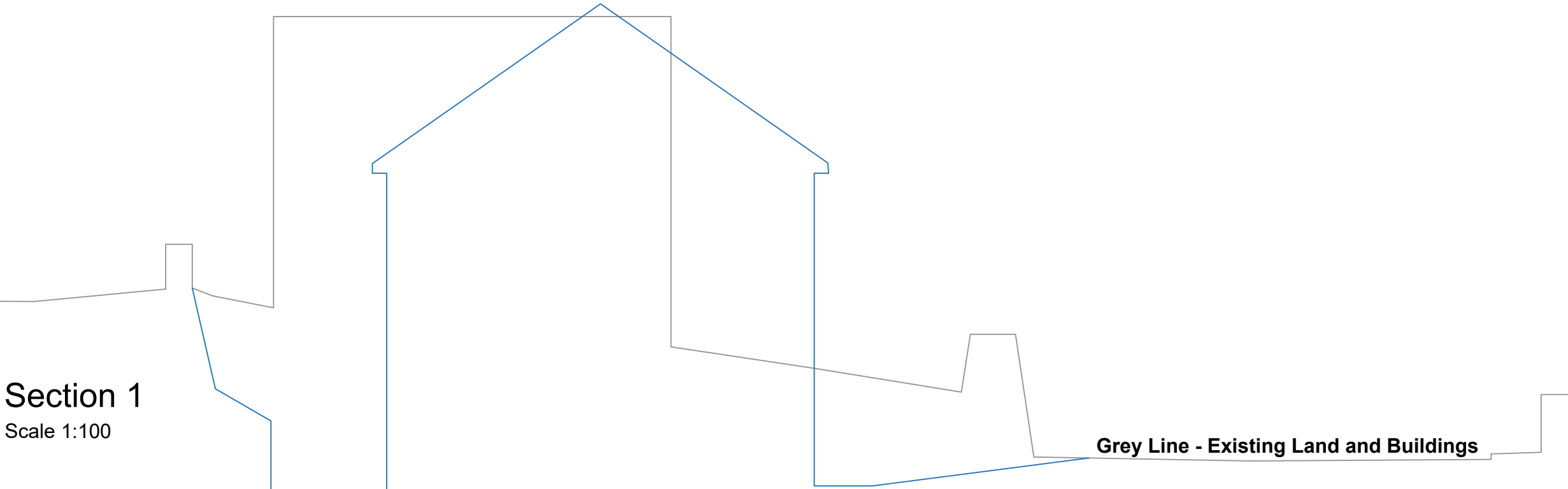


General Notes
01: Ensure drawing is printed to accurate scale before scaling any dimensions, the scale bar below is to assist. If in doubt, contact TADW Architects.
02: All dimensions are in millimetres unless noted otherwise.
03: All dimensions should be verified on site before proceeding with the work.
04: TADW Architects shall be notified in writing of any discrepancies.
05: © TADW Limited (UK) 2020

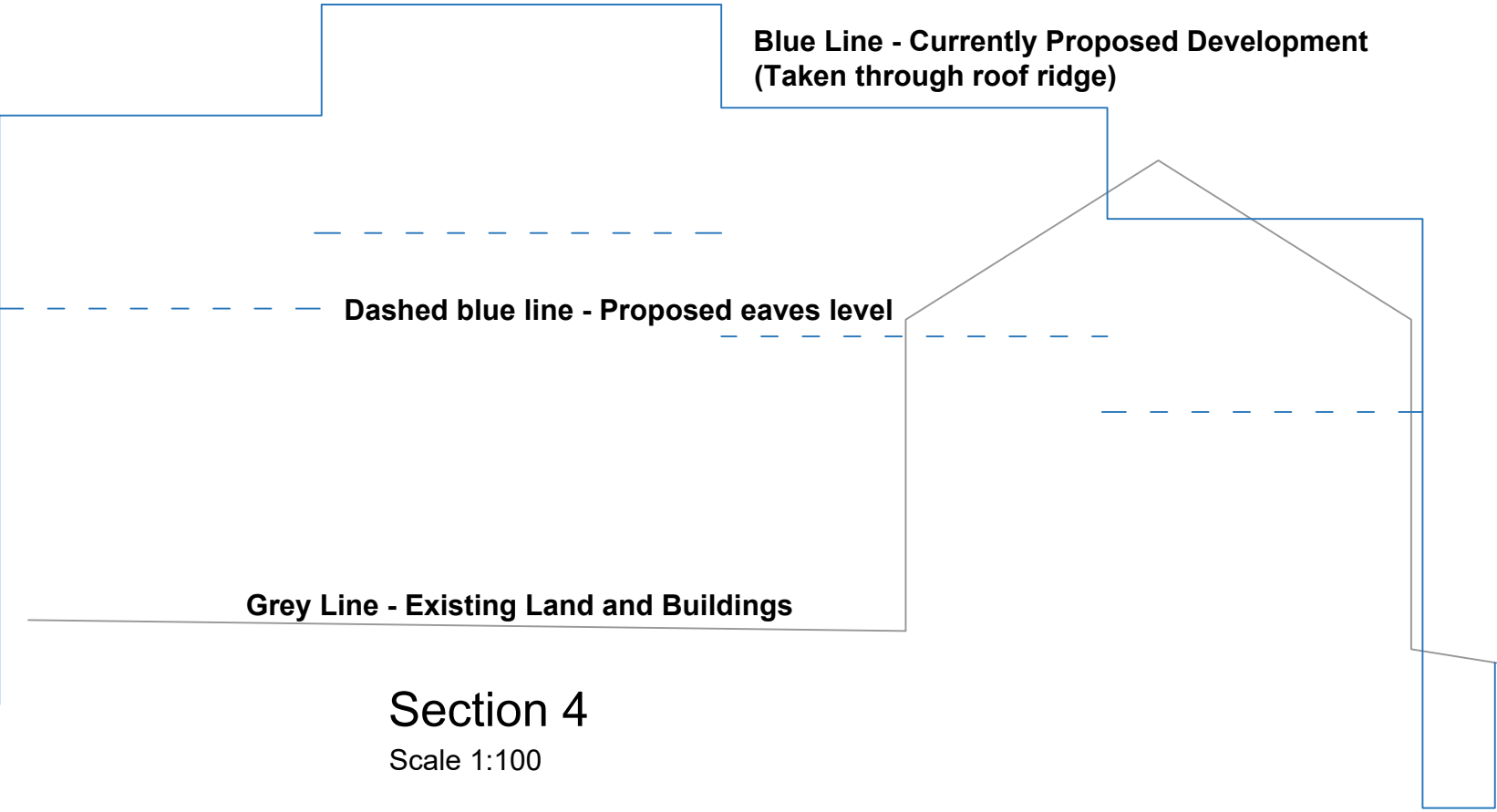
Legend



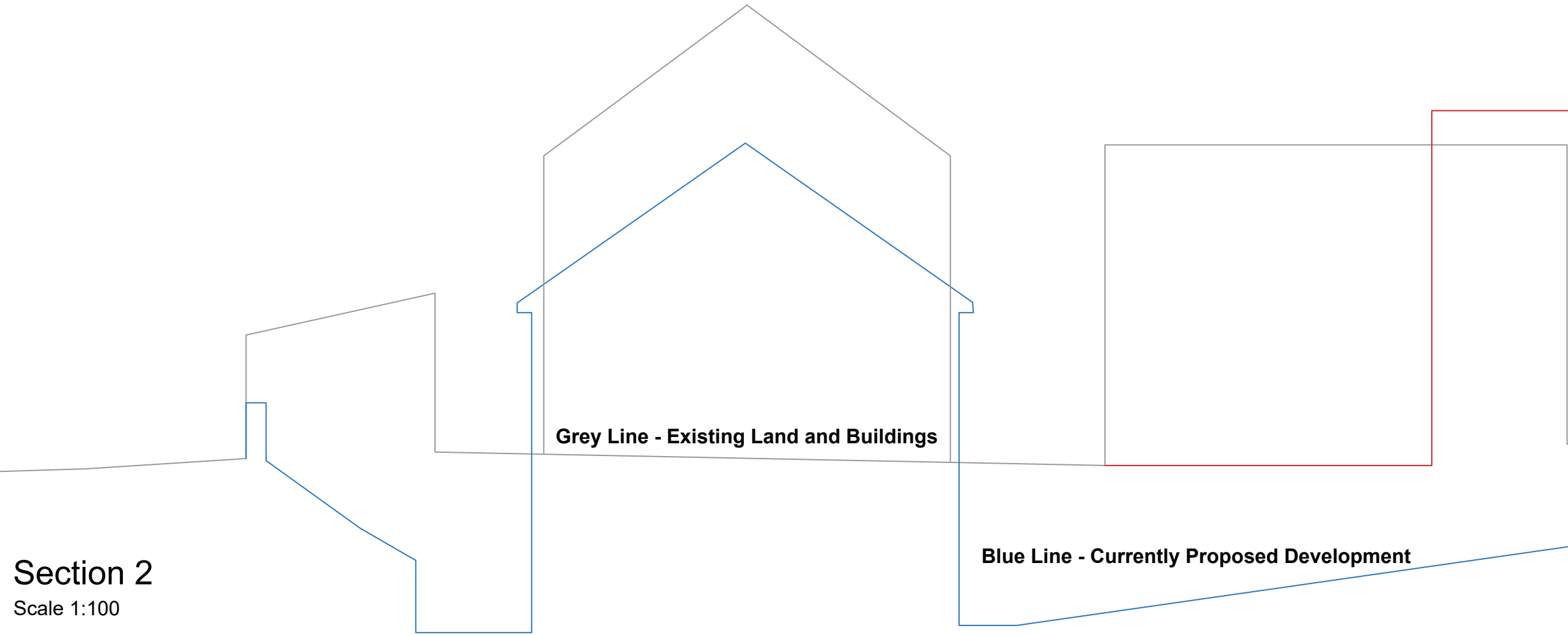
Section 1
Scale 1:100



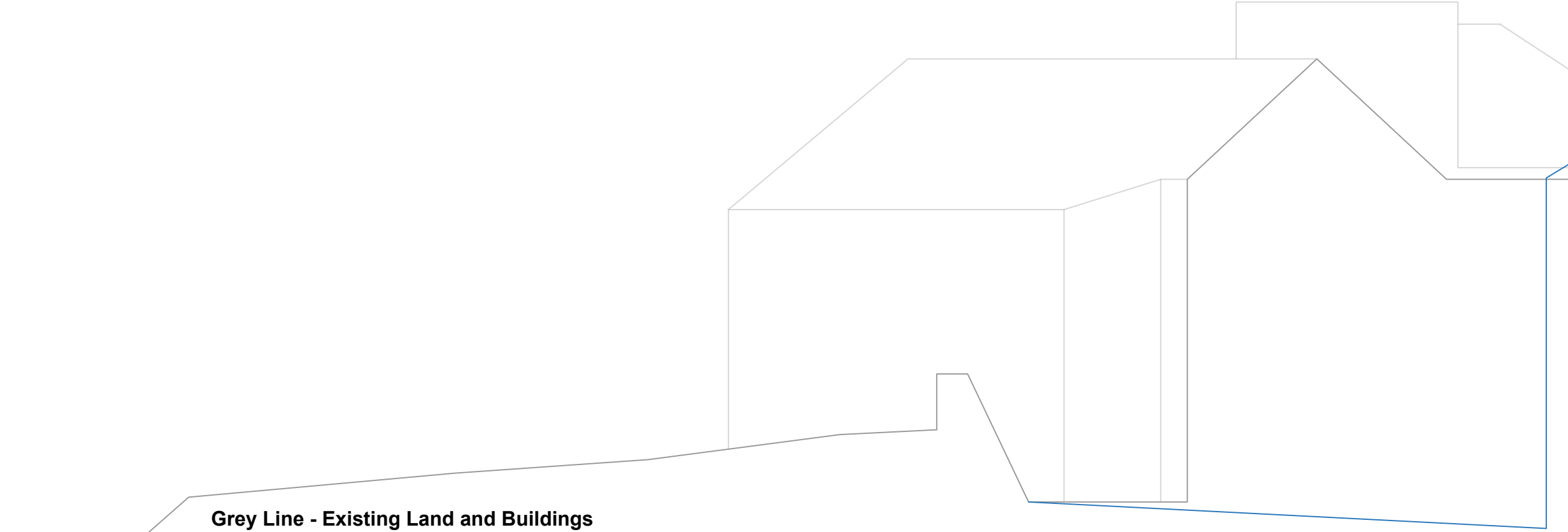
Section 4
Scale 1:100



Section 2
Scale 1:100



Section 3
Scale 1:100



Blue Line - Currently Proposed Development

P2	Section 4 produced	21.10.20	AM	GN
P1	Drawn for comments	25.08.20	AM	GN
Issue	Description	Date	Drawn	Checked
Drawing Status P - Planning T - Tender C - Construction R - As Record				
For Approval				
<div><div>tadw</div><div>architects</div><div></div></div>				
Six St. Petersgate Stockport Cheshire SK1 1HD Ph 0161 477 6158 Fx 0161 480 8342 mail@tadw.co.uk www.tadw.co.uk				
Client	Treville Properties Ltd.			
Job	Taxal Edge, Whaley Bridge			
Title	Site Sections			
Scale	1:100, 1:500 @ A1			
Note - Prints from PDF files may not be to scale, check accuracy against scale				
<div><div><div></div><div></div><div></div><div></div><div></div></div><div>510m1:100</div></div>				
Job Number	Drawing Number		Issue	
411179	25		P2	

Appendix 4B

Ms Rachael Simpkin
High Peak Borough Council - Planning
Buxton Town Hall
Market Place
Buxton
Derbyshire
SK17 6EL

1 – 4 South Park Court
Hobson Street
Macclesfield
Cheshire
SK11 8BS

T: 01625 433881
F: 01625 511457

info@emeryplanning.com
www.emeryplanning.com

19 April 2021

EP ref: 19-429

Lynn Jones
T: 01625 442 742
LynnJones@emeryplanning.com

Dear Ms Simpkin

Re: HPK/2020/0301 – Taxal Edge, Macclesfield Road, Whaley Bridge

We write further to the update report to the Development Control Committee, which was published on the council's website late on Friday afternoon. Given the scope of the update, it will be difficult to respond to all of the points raised within the 3 minutes that are allocated for speaking in support of the application. We would therefore be grateful if the following matters could be brought to the attention of members, to assist in their consideration of the application:

- Although an appeal against non-determination has been made, members can of course make a resolution to approve the application, which would avoid the need for the appeal to run its full course.
- In respect of the appeal procedure, although you have suggested there are no complex matters of fact, policy or law, we respectfully disagree. There is a difference of position between the applicant and the LPA in respect of the fallback position and its relevance to the application. The update report also states that enforcement investigations are relevant to the determination in respect of the lawfulness of the converted classroom building. These and various other matters do require the consideration of complex factual and legal matters.
- Notwithstanding the above, we maintain that all of the evidence points to the classroom, being lawful. However, if there is concern over granting approval for the garage referred to in the update report, this could be removed from the application, or its construction controlled by condition to the effect: ***'notwithstanding the details on the submitted and***

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approved plans, this planning permission shall not convey consent for the garage identified as serving the converted classroom block. Amended proposed site layout plans shall be submitted to and approved in writing by the LPA prior to the commencement of any development on site. the development shall then be carried out in accordance with the approved plans.'

- We welcome the LPA's acknowledgement that the proposed mix of house-types is acceptable.
- In respect of the late comments received by the LPA from a local resident, we can confirm that counsel's written opinions were based on a full and detailed knowledge of the case. We would stress that there are no highways objections to the development and allegations regarding access and ownership rights are not planning matters that would provide a basis for refusal of the application, as acknowledged by the absence of reference to this within the officer's recommended reason for refusal. All other matters referred to within the objection have been already been addressed by the applicant.

Yours sincerely
Emery Planning

Lynn Jones

Lynn Jones MA MRTPI
Senior Consultant

Appendix 5



High Peak Borough Council
working for our community

Mr Rawdon Gascoigne
Emery Planning Partnership
Units 2-4 South Park Business Court
Hobson Street
Macclesfield
Cheshire
SK11 8BS

Treville Properties Ltd
C/O Agent

Application no: HPK/2020/0301

Determined on: 19th April 2021

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015

REFUSAL OF PLANNING PERMISSION

Location of Development:

184 Taxal Edge, Macclesfield Road, Whaley Bridge, Derbyshire, SK23 7DR.

Description of Development:

Demolition of the existing building known as "Taxal Edge" and the detached garage building
and the erection of 7 no. dwellings

High Peak Borough Council in pursuance of powers under the above mentioned Act hereby **REFUSE** to permit the development described above in accordance with plans ref: 2020 01 02; 411179 10; 411179 19; 411179 20; 411179 21; 411179 23; 411179 24, 411179 25 P1 & P2 for the reason(s) specified below:-

1. The scheme would not be well related to the existing pattern of development and surrounding land uses or be of an appropriate scale for this aspect of the Whaley Bridge settlement. In addition, the scheme would constitute poor design and fails to understand the site's defining characteristics. Furthermore, the scheme's design / layout would result in overbearing and shading impacts to an unacceptable level of amenity to be enjoyed by the future occupiers of Plots 1 and 2. The development therefore fails to comply with Policies S1, S1a, S2, S6, H1, EQ2, EQ3 and EQ6 of the Adopted High Peak Local Plan, the Adopted High Peak Design Guide, the Adopted Residential Design Guide and the Adopted Landscape Character Assessment Supplementary Planning Document 2006 and the National Planning Policy Framework.





High Peak Borough Council
working for our community

Informatives

1. Prior to the determination of the application the Council advised the applicant that the principle of such development is unsustainable and did not conform with the provisions of the NPPF. It is considered that the applicant is unable to overcome such principle concerns and thus no amendments to the application were requested.

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council

NOTES

P O Box 136 Buxton SK17 1AQ
Phone 0845 129 77 77 or 01298 28400 Fax 01298 27639 Minicom 0845 129 48 76
E-mail customer-services@highpeak.gov.uk Website www.highpeak.gov.uk
Mobile Text No. 078 0000 2262





High Peak Borough Council

working for our community

1. If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
1. If the decision to refuse planning permission is for a householder application, and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
2. If this is a decision to refuse planning permission for a minor commercial application, and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
3. If this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.
4. If you want to appeal against your local planning authority's decision for any other type of development, including listed building consents then you must do so within 6 months of the date of this notice Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>
5. The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
6. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.



Appendix 6A



TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 1995

FULL PLANNING APPLICATION

PERMISSION

Applicant Ray Butler
C/O Ray Butler & Sons
Station Road Eccles Road
Chapel-en-le-Frith
SK23
Agent Peter Dalton
53 Long lane
Chapel-en-le-Frith
SK23 0TA

Application no. HPK/2008/0069

Registered on 04/02/2008

Determined on 28/03/2008

High Peak Borough Council hereby **PERMIT** this application for **FULL PLANNING PERMISSION** for

Change of use of Taxal Edge from boarding hostel and associated ancillary residential accommodation to use as single family dwelling at Taxal Edge Macclesfield Road Whaley Bridge

in accordance with the submitted application, details and accompanying plans listed below because having regard to the existing development in the area and the provisions of the development plan the proposal would be in accordance with the plan, would not materially harm the character or appearance of the area or the living conditions of neighbouring occupiers subject to the following conditions and reasons:-

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission unless some other specific period has been indicated in other conditions given.

.....
Adrian Fisher
Head of Planning & Development

2. Notwithstanding the provisions of Classes A, B,C, D, E, F, G and H of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) no extensions, buildings, means of enclosure or external alterations or works shall be erected without the prior written approval of the local planning authority.
3. Prior to the commencement of development and notwithstanding the details provided on the submitted plans a plan showing the extent of the residential curtilage relating to the residential unit shall be submitted in writing to the Local Planning Authority within 28 days of the date of this consent. The development shall thereafter be implemented in accordance with the approved plan.

Reasons

1. The time limit condition is imposed in order to comply with the requirements of sections 91, 92, 93 and 56 of the Town and Country Planning Act 1990 and section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the Council to exercise control over future developments at the site. In accordance with Policy GD4 and GD5 of the Adopted High Peak Local Plan 2005.
3. In order to restrict the incursion of the residential curtilage into open countryside in accordance with policy OC2 of the Adopted High Peak Local Plan

Notes to Applicant

Plans

The plans to which this Notice refers are listed below:

- Location Plan 1
- Location Plan 2

.....
Adrian Fisher
Head of Planning & Development

High Peak Borough Council Planning and Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 77 77 Fax 01457 860290 Minicom 0845 129 48 76
E-mail planning@highpeak.gov.uk Website www.highpeak.gov.uk

NOTES

1. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Office of the Deputy Prime Minister in accordance with Section 78 & 79 of the Town and Country Planning Act 1990. **PLEASE NOTE the time period for appeal has changed.** If your application was registered as received before 14th January 2005 you can appeal within 3 months of the date of this decision. **If your application was registered on or after 14th January 2005 you can appeal within 6 months of the date of this decision.** The Office of the Deputy Prime Minister has power to allow a longer period for the giving of a notice but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The First Secretary of State is not required to entertain an appeal, if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements, to the provisions of the development order, and to any direction given under the order.
2. If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Office of the Deputy Prime Minister, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of development which has been or would be permitted, he may serve on the Council of the county district in which the land is situated, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Section 137 & 138 of the Town and Country Planning Act 1990.
3. In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the First Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
4. This permission relates to planning control only. Approval under the Building Regulations may also be required from this authority. Any other statutory consent necessary must be obtained from the appropriate authority.
5. If it is intended to give notice of appeal in accordance with Paragraph 1 above, this should be done on the appropriate form obtainable from: The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0117 3728000, fax. 0117 – 3728624.
6. Where a vehicle is often driven across a grass verge or kerbed footway to and from premises adjoining a highway, the occupier of the premises may, be required to pay the cost of construction of a crossing, and/or the strengthening of a footway, as the Authority considers necessary, or may be required to comply with conditions, imposed by the Authority. You should contact the Highway Authority, Derbyshire County Council at County Hall, Matlock, Derbyshire, tel. 01629 580000.
7. Developers should be aware of their statutory obligations with regard to access to buildings

and their surroundings, in particular:

Building Regulations 2000 Approved Document M, 2004 Edition
The Work Place (Health, Safety & Welfare) Regulations 1992
The Disability Discrimination Act 1995
The Disability Discrimination (Employment) Regulations 1996

8. Developers should also be aware of the provisions of the Gas Safety Regulations 1972 and Gas Safety (Installation and Use) Regulations 1984. It is possible that the existing gas service pipe which lies within the area of the proposed extension of alterations which will contravene the provisions of these Regulations. It is necessary that you contact British Gas, North West House, Gould Street, Manchester, M4 4DJ, who will advise if the existing gas service pipe requires alterations.

Appendix 6B

Planning Application Form

HPK/2008 / 0069



Please read the attached guidance notes
Please complete in block letters or tick the box as appropriate and return
Four copies of the form to the address on the back.

1	Name & address of applicant Ray Butler c/o Ray Butler & Sons Station Yard, Eccles Road, Chapel-en-le-Frith Postcode: SK23 0 Tel: 01298 814749	Name & address of agent Peter Dalton BA(Hons) MRTPI 53 Long Lane, Chapel-en-le-Frith SK23 0TA Tel: 01298 813310 Contact: Peter Dalton Fax: 01298 814998
----------	--	--

2	Proposed development A. Location or address of proposed development (outline in red on all site plans) Tazal Edge, Macclesfield Road, Whaley Bridge, High Peak B. Description of proposed development (if housing state number of units) Change of Use of the Building and Property of Tazal Edge shown in solid red and edged red on the Location Plan from Boarding Hostel and associated ancillary residential accommodation to use as single family dwelling C. Is the proposal for a temporary period? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> How long for? D. Size of site (outline in red on all site plans) 0.8 hectares <input checked="" type="checkbox"/> E. Do you own or control any adjoining land? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If YES outline in blue on all site plans
----------	---

Type of application Please tick one box A. This is an outline application <input type="checkbox"/> B. This is a reserved matter application <input type="checkbox"/> C. This is a full application for: i) Building or engineering operations only <input type="checkbox"/> ii) Change of use without any building or engineering operations <input checked="" type="checkbox"/> iii) Change of use and building or engineering operations <input type="checkbox"/> iv) Renewal of temporary permission <input type="checkbox"/> (if so, number of existing application) v) Removal or variation of a condition of a previous planning application <input type="checkbox"/> Condition No. Application No.	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> HIGH PEAK BOROUGH COUNCIL GLASSOP SITE RECEIVED 04 FEB 2008 </div> Outline application number Date of permission REPLY REQUIRED
---	---

4	Applications If you have ticked A or B in question 3, please tick the relevant boxes. If you ticked C, please go to Question 5. Do you wish to seek approval for any of the following matters as part of this application? YES <input type="checkbox"/> NO <input type="checkbox"/> If YES tick the relevant box or boxes SITING <input type="checkbox"/> DESIGN <input type="checkbox"/> LANDSCAPE <input type="checkbox"/> EXTERNAL APPEARANCE <input type="checkbox"/> MEANS OF ACCESS <input type="checkbox"/>
----------	---

5	Roads and Public Rights of Way A. Do you propose to create a new access to a highway? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> B. Do you propose to alter an existing access to a highway? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> C. Do you propose to alter, close or divert a public right of way? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If YES to A, B or C show on the submitted plans	
6	Existing, previous use and demolition A. Existing use <u>Boarding School/ Hostel and ancillary residential use</u> B. Previous use <u>Private Dwelling</u> C. Are any buildings to be demolished? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If YES show them on the submitted plan	
7	Levels A. Does the development change land levels? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If YES clearly illustrate the change on plan, with sections showing adjoining land or properties	
8	Trees and landscaping Do you intend to lop, top or fell any trees as part of the proposed development? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If YES show them on the submitted plans	
9	Materials Type and colour of materials to be used for:- The roof <u>Not Applicable</u> External walls <u>Not Applicable as no change</u>	
10	Parking How many vehicle parking spaces will be provided? Existing <u>6</u> New Spaces <u>0</u> Total 6	
11	Drainage A. How will surface water be disposed of? (e.g. main drain, soakaway, watercourse) <u>Not applicable since no change</u> B. How will foul sewage be disposed of? (main sewer, septic tank, etc.) <u>Not Applicable since no change</u>	

If the proposed development includes industrial, commercial, retail or leisure uses, please complete questions 12-19.

If not, please proceed to Section 20.

12 Related Development

Not Applicable

Is the proposed development related to:

A. An existing use near the site?

YES ☐ NO ☐

B. A larger scheme for which permission is not yet sought?

YES ☐ NO ☐

If YES to A or B please give details

.....

C. Existing premises which are no longer satisfactory?

YES ☐ NO ☐

If YES please give details

.....

13 Floorspace in square metres

Please state the size of each use.

A. What is the current floorspace?

Industrial..... Office..... Retail..... Warehousing.....

B. How much new floorspace is to be provided?

Industrial..... Office..... Retail..... Warehousing.....

14 Employment

A. How many staff are currently employed on the site?

B. How many staff will be transferred to the site?

From where?

C. How many new staff will be employed by the proposal?

15 Hours of working Hours of Delivery; working hours may be longer and include Sunday & some Public Holidays

Please state hours of working/delivery

Monday Friday

Tuesday Saturday

Wednesday Sunday

Thursday Public Holidays

16 Parking and servicing for commercial vehicles

A. How many parking spaces are to be provided for commercial vehicles on the site?

Cars Commercial vehicles

Please show them on your plans.

B. What provision is made for loading/unloading and turning vehicles on the site?

.....

17 Traffic

How many vehicles will visit the site during a normal working day? (exclude employees' vehicles)

A. Goods vehicles

B. Other vehicles

18 Industrial development

- A. Describe any processes and products.
Attach sheet if necessary

NOT APPLICABLE

- B. What type of plant or machinery will be installed/used?

19 Hazardous Substances

Will the proposal involve the use of, or storage of any substances of the type and quantity referred to in the Hazardous Substances Regulations.

YES ☐ NO ☐

If YES state the substances and quantities.

NOT APPLICABLE

20 Please Complete

I/We submit this application and attach four copies of all plans, showing the application site outlined in red, and any neighbouring land in my/our ownership or control in blue. The attached plans:-

Please list: Location Plans, showing extent of Taxal Edge at 1/1250

AND

I/We attach a completed ownership certificate (and details of services of notices where applicable)

AND

I/We enclose a fee of £ 265

Signed

on behalf of: Ray Butler

Date: 28th January 2008

Please return four copies of this form and your plans to:

Regeneration Service
High Peak Borough Council
Municipal Buildings
Glossop
Derbyshire
SK13 8AF

For further information :

Phone 0845 129 77 77 Fax 01457 860290 Textphone 0845 129 48 76
e-mail "planning@highpeak.gov.uk"

CERTIFICATE OF OWNERSHIP

Certificate A

HPK/2008 / 0069



TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995
CERTIFICATE UNDER ARTICLE 7

I certify that:-

1. At the beginning of the period of 21 days ending with the date of the accompanying application nobody except the applicant was the owner of any part of the land to which the application relates.
- 2a. None of the land to which the application relates is, or is part of, an agricultural holding. ☒
- 2b. I have/the applicant has given notice to every person other than *my/him/herself who, at the beginning of the period of 21 days ending with the date of the application, was a tenant of an agricultural holding on all or part of the land to which the application relates:- ☐

Please tick 2a or 2b

* Delete where inappropriate

Tenants name: _____

Address at which notice was served: _____

Date on which notice was served: _____

On behalf of: Ray Butler

Certificate B

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995
CERTIFICATE UNDER ARTICLE 7

I certify that:

1. *I have/the applicant has given the required notice (i.e. Notice No. 1) to everyone else who, at the beginning of the period of 21 days ending with the date of the accompanying application, was the owner of any part of the land to which the application relates, as listed below:

Owner's name: _____

Address at which notice was served: _____

Date on which notice was served: _____

- 2a. None of the land to which the application relates is, or is part of, an agricultural holding. ☐

- 2b. *I have/the applicant has given the required notice to every person other than *my/him/herself who, at the beginning of the period of 21 days ending with the date of the application, was a tenant of an agricultural holding on all or part of the land to which the application relates: ☐

Please tick box 2a or 2b

* Delete where inappropriate

Tenant's name: _____

Address at which notice was served: _____

Date on which notice was served: _____

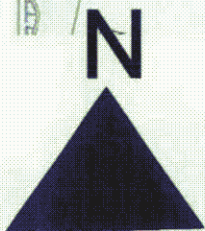
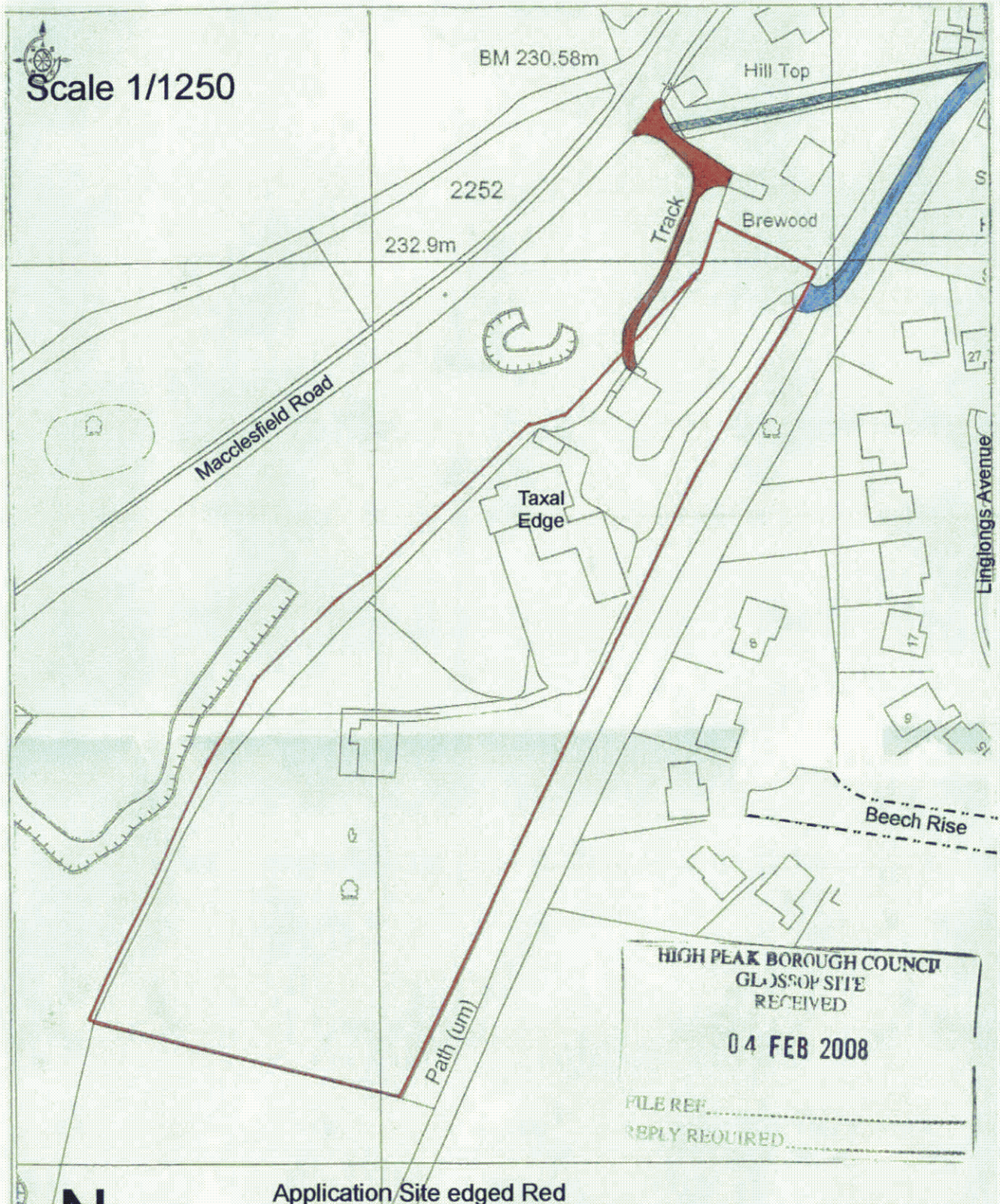
Signed: _____ Date: _____ On behalf of: _____

<p>HIGH PEAK BOROUGH COUNCIL GLOSSOP SITE RECEIVED 04 FEB 2008</p> <p>FILE REF. _____ REPLY REQUIRED _____</p>
--

Location Plan 1

HPK/2008 / 0069

Taxal Edge, Macclesfield Rd., Whaley Bridge



Application Site edged Red

Routes of Vehicular Access into the Property, Blue, Green & Red

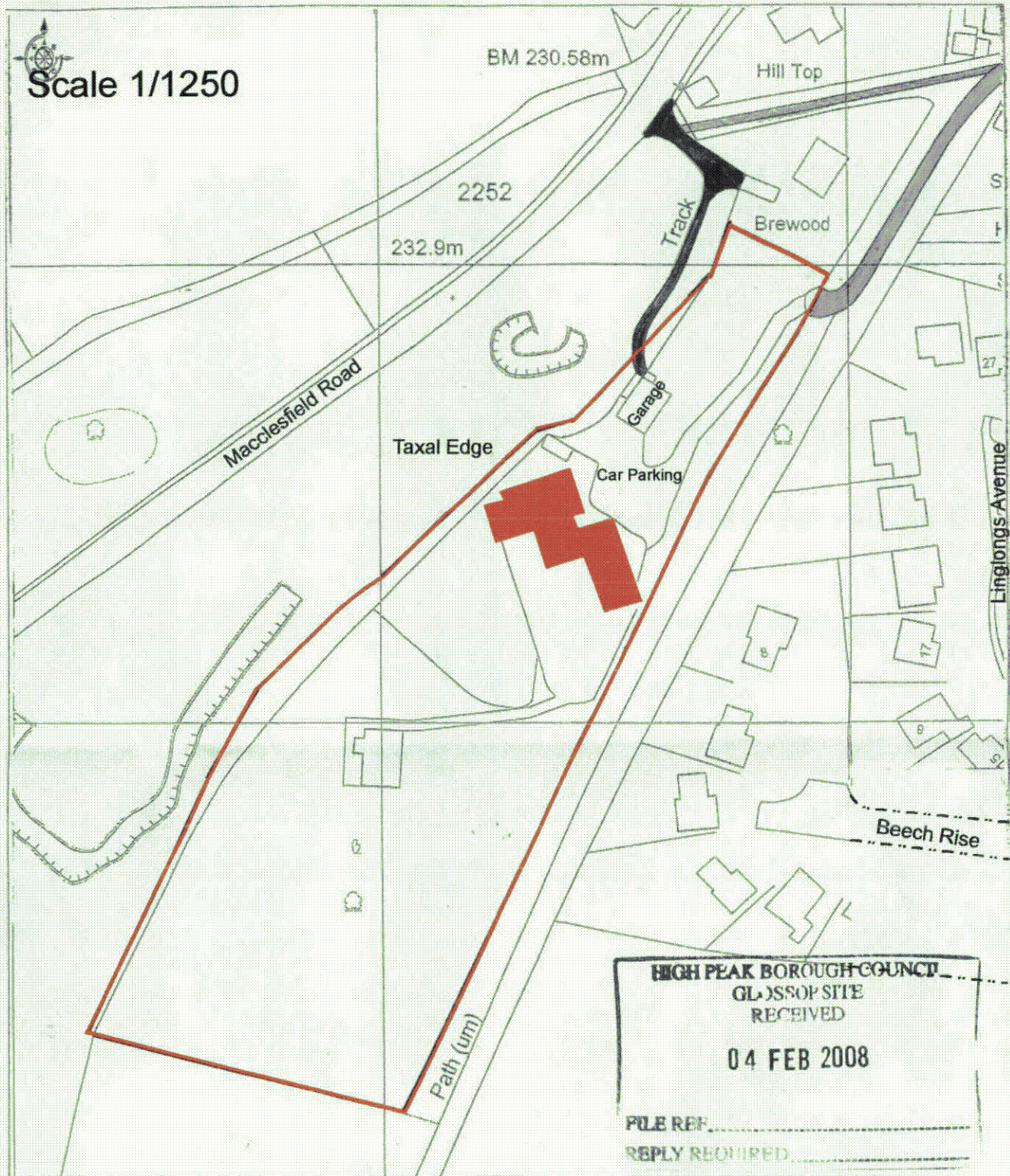
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Location Plan 2

HPK/2008 / 0069

Taxal Edge, Macclesfield Road, Whaley Bridge



Application Site edged Red and Property to be changed to use as family dwelling house blocked in Red

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Appendix 7



Neutral Citation Number: [2021] EWHC 1114 (ADMIN)

Case No: CO/1039/2020

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Bristol Civil Justice Centre
 2 Redcliff St.
 Redcliffe
 Bristol BS1 6GR
 (by remote hearing)

Date: 30th April 2021

Before :

MRS JUSTICE JEFFORD DBE

Between :

THE QUEEN
(on the application of WILLIAM CORBETT

Claimant

- and -

THE CORNWALL COUNCIL

Defendant

-and-

DYMPNA WILSON

Interested
Party

Mr William Corbett appearing in person
Mr Sancho Brett (instructed by **Cornwall Council Legal Services**) for the **Defendant**

Hearing date: 17 November 2020

Approved Judgment

Covid-19 Protocol: This judgment was handed down remotely by circulation to the parties' representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down is deemed to be 10.00 a.m. on Friday, 30 April 2021.

MRS JUSTICE JEFFORD DBE:

Background facts

The planning application

1. This matter involves the grant of planning permission for the construction of a dwelling house and garage accommodation in the grounds of Beacon House West, a nineteenth century house, in existence since the 1840s, at Trevarrian in Cornwall. The proposed house would be built on the site of an existing garage and store. Planning permission was granted on 3 February 2020.
2. The existing house is accessed from a road, Trevarrian Hill, also referred to as the coast road, which, broadly speaking, runs alongside the west side of the main body of the settlement of Trevarrian. The main body of Trevarrian is the other side of the road. On the same side of the road is Shrub Cottage. To the east of the main body of the settlement is the B3276.

The planning decision

3. The application came before the Council's Central Sub-Area Planning Committee on 20 January 2020 together with the Officer's Report ("the Report"). The Report identified the relevant policy as Policy 3 of the Cornwall Local Plan 2016 which contains the following:

"Policy 3: Role and function of places

...

3. *Other than at the main towns identified in this Policy, housing and employment growth will be delivered for the remainder of the Community Network Area housing requirement through:*

....

- *rounding off of settlements and development of previously developed land within or immediately adjoining that settlement of a scale appropriate to its size or role"*

4. As to this Policy, the Report contained the following passages:

(i) *“2. The proposal is supported by policies 3 and 21 of the Cornwall Local [Plan] in that the new home is on previously developed land immediately adjacent to a settlement.”*

(ii) At paragraph 16, the Report set out in full the objections of the St Mawgan-in-Pydar Parish Council (“PC”). The PC argued that in order to comply with Policy 3 the development would have to be either rounding off or infilling and it was neither. The PC further said that although Beacon House lay within the settlement of Trevarrian, the main built up part of the hamlet was the other side of the coast road:

“Therefore, in so far as it is being suggested that the site constitutes “previously developed land”, this would not accord with the definition of PDL in the glossary to the Framework which specifically excludes “residential gardens in built up areas””

(iii) *“21. The site is located within the countryside. It is previously developed land (PDL) by reason that it contains the garden area of an existing home on land outside of a built up area.”*

(iv) *“22. Policy 3 of the Cornwall Local Plan (CLP) supports new housing on PDL provided that the site is located within or immediately adjoining a settlement and that ... the scale of the proposal is appropriate to its size and role. The application complies with this policy insofar that the proposed new home is located on PDL which adjoins the settlement of Trevarrian.”*

(v) *“23. An important planning judgement required when considering the proposal against Policy 3 is whether or not the application site immediately adjoins Trevarrian. This is arguable as the site and settlement are physically separated by a road and the proposed new house by the same road and a driveway yet a new home on this site would be more immediately adjoining the settlement than not in terms of its setting and how it would functionally operate. The officer conclusion that the site immediately adjoins is underpinned by the judgment that*

this proposal would extend the residential setting and function of Trevarrian rather than introducing a new home of a more detached nature.”

5. An Addendum to the Report dated 20 January 2020 was also before the Committee. That set out the PC’s view that the site could not be regarded as previously developed land within or immediately adjoining a settlement. The PC relied on the fact that there was a field between the site and the coast road. In summary, the PC’s position was that the applicable policy was Policy 7 in respect of development in the open countryside and set out its arguments as to why permission should be refused applying Policy 7.
6. The Officer’s comments accepted that the proposals did not comply with Policy 7 but pointed out that the recommendation to approve was not dependent on that policy but on Policies 3 and 21. The Officer said:

“A difference in opinion between officers and the parish council relates to whether or not the site is immediately adjoining the settlement. If it is, the proposals can comply with Policy 3 but it would not if it is not. The officer report makes clear that this judgement is arguable and sets out the reasons why officers have concluded that the site is immediately adjoining a settlement at paragraph 23.”

7. The minutes of the meeting indicate that there was some concern expressed about whether the proposed development was immediately adjoining the settlement and that that was an issue fully debated. The application was approved by a majority of 9 to 5.

The legal framework

8. It is uncontroversial that the meaning of planning policy is a question of law: *Tesco Stores Ltd. v Dundee City Council* [2012] UKSC 13 at [18].
9. A useful guide to the question of interpretation is drawn together in the judgment of Lindblom LJ in *Canterbury City Council v SSCLG* [2019] EWCA Civ 669 at [22]

“If the relevant policies of the plan have been properly understood in the making of the decision, the application of those policies is a matter for the decision-maker, whose reasonable exercise of planning judgment on the relevant considerations the court will not disturb: see the speech of Lord Hoffmann in Tesco Stores Ltd v Secretary of State for the Environment [1995]

1 WLR 759, 780. The interpretation of development plan policy, however, is ultimately a matter of law for the court. The court does not approach that task with the same linguistic rigour as it applies to the construction of a statute or contract. It must seek to discern from the language used in formulating the plan the sensible meaning of the policies in question, in their full context, and thus their true effect. The context includes the objectives to which the policies are directed, other relevant policies in the plan, and the relevant supporting text. The court will always keep in mind that the creation of development plan policy by a local planning authority is not an end in itself, but a means to the end of coherent and reasonably predictable decision-making, in the public interest:”

10. The claimant placed particular reliance on the decision of Lieven J in *Wiltshire Council v SSHCLG* [2020] EWHC 954 (Admin) as a recent example of the approach of the Planning Court to the interpretation of policy. In that case, Lieven J decided that the word “dwelling” in the relevant policy was “capable of one objective meaning regardless of the facts of any particular case” (at [26]) and as such was a matter of law. The issue was not, she said, whether the word “dwelling” was reasonably capable of bearing the meaning given to it by the inspector. Further, in reaching her conclusion as to what that one objective meaning was she had regard to overarching policy objective or the “mischief” at which the planning policy was directed. That decision, to my mind, follows the guidance of Lindblom LJ in that the judge formed the view that, having regard to the full context, the word “dwelling” could only bear one meaning. It does not follow that in all cases the words used in a planning policy are only capable of a single objective meaning.
11. Where it is contended that the decision maker has misinterpreted, rather than misapplied, the policy, it will normally be necessary for the claimant to identify the correct interpretation of the words used and how the decision maker’s interpretation departs from that meaning (*Trustees of the Barker Mill Estates v Test Valley Borough Council* [2016] EWHC 3028 per Holgate J at [84]).

The issues

12. The claimant’s Statement of Facts and Grounds identifies a single ground of challenge to the Committee’s decision, namely that the defendant failed to understand, and therefore apply, Policy 3. It is argued that, following paragraph 23 of the Report, the Council interpreted “immediately adjoining the settlement” as meaning (or perhaps

more accurately including) a development which was physically separated from the settlement by a main road and a driveway.

13. It is argued that the Report misled members in a material way such that planning permission was granted on a misinterpretation of a critical policy and, therefore, involved an error of law.
14. The claimant argues that the interpretation of that policy is a matter of law and not planning judgment; that the words “immediately adjoining a settlement” have a clear and specific meaning; and that the site does not fall within that meaning. He relies on the Oxford English Dictionary definition of “adjoining” as “lying next to”, “co-terminus with” or “contiguous with” for that clear and specific meaning.
15. The thrust of his argument is that that meaning conveys that there must be no physical feature (presumably natural or manmade) between the development site and the settlement. If there is they are not, he submits, adjoining – they are near to each other but do not touch and so cannot be said to lie next to each other or be co-terminus or contiguous. He argues that the addition of the word immediately reinforces the need for the land to physically touch in order to be adjoining.
16. The claimant then argues that the Officer’s Report was misleading in that respect as it presented the issue of whether the land was immediately adjoining as if that were a matter for the planning judgment of the Committee and/or on the basis that a site that was near or very near a settlement could be regarded as immediately adjoining that settlement. It follows, it is submitted, that the Committee must have proceeded on a legally incorrect basis.
17. On 20 May 2020, Lang J refused permission on paper giving the following reasons:
“In my view, the Claimant’s narrow and literal interpretation of the words “immediately adjoining the settlement” in Policy 3 of the Cornwall Local Plan is unarguable. The meaning of the phrase “immediately adjoining” is wide enough to include “next to” or “very near”. The local planning authority had to make a planning judgment on this issue in this case, in light of the evidence available to it. That judgment cannot be challenged absent an error of law.”
18. The claimant renewed his application orally and was given permission.

19. As I explain below, in my view however, the reasons Lang J gave for refusing permission were right and are sufficient to dispose of this judicial review. Lang J clearly did not mean that the words could be given whatever meaning the defendant chose but rather that the words had to be given a sensible meaning which included “next to” to “very near” and whether the site fell within that meaning and was sufficiently “next to” or “very near” then involved an exercise of planning judgment.

The defendant’s position

20. The Council’s Detailed Grounds dated 18 August 2020, as might be expected, engaged with the claimant’s contentions as to the proper interpretation and application of Policy 3 the relevance of which presupposes that the proposed development is not within the settlement. Indeed, it is the claimant’s case that if it were, different policy considerations would come into play. The Council’s Detailed Grounds did, however, address briefly the point that it was arguable that the site was within the settlement. That is certainly the view of Ms Wilson, the applicant for planning permission and Interested Party, in her witness statement, and appeared to have been the view of the Parish Council.
21. In his skeleton argument for the hearing before me, Mr Brett, on behalf of the Council, took this point first, submitting that the claim was academic because the site was within the settlement. He addressed the “immediately adjoining” argument without prejudice to his primary argument. I do not accept that I should approach the matter on this basis. It was not the basis of the Officer’s Report, the Committee’s considerations, or the decision to grant planning permission. The argument that the site is within the settlement was not the basis on which the defendant contested this claim and was advanced merely as a point that was arguable. It is not the issue before me.
22. In his oral submissions, Mr Brett approached the matter differently. He addressed the Policy 3 interpretation issue first and fully. But he also argued that the Interested Party’s case was that the development site was within the settlement so that if the matter went back to Committee, it is likely that the Committee would grant planning permission. Thus relying on section 31(2A) of the Senior Courts Act 1981, he submitted that the court should refuse to grant any relief even if the claimant’s case were otherwise to succeed.

23. Whilst it might seem that the planning decision would be a fortiori if the site were within the settlement, as I have noted, the claimant's case is that different policy considerations would apply and it is not sufficient for the defendant to assert that the decision would be the same. Further that argument presupposes that the Committee would accept the Interested Party's position. The Officer's Report clearly did not proceed on the basis that the site was within the settlement and, whilst the minutes of the meeting record that one Councillor expressed the view that it was, there is nothing to suggest that that was the conclusion the Committee came to. Its decision remained based on the site being one immediately adjoining the settlement.
24. Although, as will become apparent, I do not consider the arguments as to whether the site is within the settlement completely irrelevant, I shall focus on the ground relating to Policy 3 and on which permission was granted.

The interpretation of Policy 3

The meaning of the words

25. There is no dispute that the interpretation of the policy is a matter of law but it does not follow that the issue as to the meaning of immediately adjoining must be answered by some strict definition or that contended for by the claimant.
26. So far as the words are concerned, the short answer to the claimant's case is to be found in other dictionary definitions of the words "adjoin" or "adjoining". The Council has provided a definition of adjoin, adjoining and adjacent from the full online Oxford English Dictionary as follows:

“ ‘Adjoining’ means: ‘Adjacent, contiguous; neighbouring; (also) physically joined, attached, connected.’

‘Adjoin’ means:

 - a. transitive. To be located next to or very near (a thing, place or person); to be adjacent to or contiguous to; (also) to be physically joined, attached or connected to.
 - b. To be located next to or very near a specified or implied location; to be adjacent or contiguous. Sometimes: spec. to share a common border.

‘Adjacent’ means: ‘Next to or very near something else; neighbouring; bordering, contiguous; adjoining.’

27. The very fact of the varying scope of the definitions militates against the claimant’s restrictive interpretation. As the Council submits, the definitions given are wide enough to include “next to” or “very near”; no clear distinction is drawn between adjoining and adjacent; and, even if the definition were limited to something physically joined to the settlement, it would not have to be co-extensive.
28. I do not consider that the addition of the word “immediately” changes any of that. The claimant’s submission is that this word makes clear that the development must not be “physically separated” from the settlement and/or that there must be nothing between the proposed development and the settlement. In my judgment that places too much weight on a word that does no more than reinforce the word “adjoining” and indicate the element of judgment in whether a site is or is not adjoining, if that word is construed as including “very near” or “next to”. To take an example, there may be a settlement with some area of green space (say a playing field or a wooded area). Assuming that there was no argument that the green space was within the bounds of the settlement, a proposed development on a site adjoining the green space would be adjoining the settlement but it might be argued that it was not “immediately adjoining” since it was further from the built element of the settlement. That is a matter of judgment and is of the same nature as the judgment that was exercised here (assuming that Beacon House was not within the settlement) in respect of a property along a driveway from the road.
29. The claimant advanced an argument based on the development of Policy 3 and the change in wording. In short, he submitted that the Policy as originally drafted used the words “within or adjoining the settlement”. That was changed to “within” and then finally to “within or immediately adjoining”. Mr Corbett submitted that that demonstrated that the first wording was too wide, the second too tight and the third sufficiently tight. He may well be right about that but it reaches the position I have set out above and not the legal interpretation for which he contends.
30. The Council objected to any reliance being placed on this argument, in any event, as it involved the adducing of further evidence through reply submissions for which no

permission had been given and the Council argued that it was prejudiced in being unable to address the lengthy and involved development of the Local Plan. Further, the Council submitted that Mr Corbett was simply wrong about the history of the wording. In fact, the Planning Inspector's Report on the Cornwall Local Plan Strategic Policies (September 2016) which preceded the adoption of the Plan, had stated, at paragraph 99, that the wording of Part 3 of Policy 3 had been inconsistent and confusing in terms of infill. The Inspector concluded that he was now satisfied that the Council's approach was justified allowing "infilling of small gaps, but requiring consideration of the significance for the character of settlements of larger gaps; allowing rounding-off where there are clear physical boundaries; and for the redevelopment of previously developed land within or adjoining the settlement."

31. Given the view I have formed it is unnecessary for me to decide any point relating to the development of the Local Plan but the Council's submissions reinforce my view that the claimant's argument places too much weight on the word "immediately".
32. The claimant also placed reliance on Policy 7 Housing in the Countryside. The Council again objected to any reliance being placed on this Policy which was, it was argued, not relied on in the Statement of Facts and Grounds. Mr Corbett argued that it is a material part of the Local Plan, was relied on by him when he renewed his application for permission, and was not a matter on which the judge granting permission required him to amend his grounds. It was addressed in the oral hearing.
33. That Policy includes the following:
"The development of new homes in the open countryside will only be permitted where there are specific circumstances"
34. These circumstances include replacement dwellings, subdivision of existing dwellings and reuse of buildings and it is not suggested that the present development falls within any of these circumstances. The narrative to the policy states (at paragraph 2.33):
"Open countryside is defined as the area outside the physical boundaries of existing settlements (where they have clear form and shape). The Plan seeks to ensure that development occurs in the most sustainable locations in order to protect the open countryside from inappropriate development. Supporting text to Policy 3 sets out the Council's approach to sustainable development....."

35. The claimant then points to various aerial photographs and OS maps to support the proposition that the land to the west of Trevarrian Hill or coast road is open countryside within the meaning of Policy 7.
36. The photographs and maps show that in 1907 Beacon House and Shrub Cottage were in existence to the west of Trevarrian Hill. By 1963, there were no further dwellings to the west and Trevarrian remained clustered around the junction of Trevarrian Hill (also referred to as the coast road) and the B3276. Mr Corbett says that since then some holiday cottages have been constructed behind the Watergate Bay Hotel (on the coast) and a new farmstead above Mawgan Porth. Thus he submits that the land to the west of the coast road is in open countryside, with the coast road forming the boundary of the settlement.
37. To the extent that the claimant seeks to argue that the defendant ought to have applied Policy 7 to the application and erred in applying a different policy, that argument is not open to him. It was not his articulated ground of challenge and, whilst it may have been raised on the oral application for permission, I have seen nothing to suggest that additional grounds were allowed. As I understood it, the claimant's argument was rather that the policy in Policy 7 of prohibiting development in open countryside subject to very limited exceptions could and should itself inform the reading of Policy 3. In simple terms, a loose reading of Policy 3 should not be allowed to encroach on or depart from the principles underlying Policy 7 – and the defendant's approach to the meaning of the words "immediately adjoining" did so.
38. Firstly, the definition of open countryside in paragraph 2.33 is dependent on the existing settlement having a clear form and shape. In the Addendum to the Officer's Report, the Officer accepted that Trevarrian was a settlement because it was "a place where people live in permanent buildings which has form, shape and clearly defined boundaries". Nonetheless, where and what the form and shape are and where the boundaries lie must involve an element of judgment and may well include the application of local knowledge. In the present case, there is a concentration of buildings forming the settlement that has extended since 1963 and there are elements of development outside this area of concentration including Beacon House and Shrub Cottage. The Interested Party's Planning Statement described the entire plot of Beacon House East as forming a natural end to the village. That is not to suggest that the Officer or the Committee ought to have reached any different conclusion about whether

the site was within the settlement or in open countryside but it demonstrates why the application of both policies is likely to involve matters of planning judgment rather than be predicated on a single restrictive meaning of the words used and why such a restrictive meaning is not necessary to support Policy 7.

39. Secondly, and in any event, the application of Policy 7 cannot preclude the application of Policy 3 where the development land is immediately adjoining the settlement. That would add a gloss to Policy 3 which is not there and preclude any development in open countryside even if immediately adjoining a settlement. As the defendant submits there are two policies to be applied. The Council, in this case, did not rely on or seek to apply Policy 7. Whilst the application of Policy 3 may create a risk of creep into the open countryside, that is a matter of planning judgment. In this case, to the extent that the Officer and the Council took such risk into account, there was a clear view (at paragraph 30 of the Report) that the proposed development would not harm the distinctive character and beauty of the Great Value Landscape because the site was already residential, it was well-related to the nearby settlement, the proposed development replaced an existing garage, and it was within existing boundary vegetation.
40. Accordingly, in my view, the claimant's reliance on Policy 7 does not add to his arguments on the interpretation of Policy 3 or to the merits of the challenge.

Matters of planning judgment

41. In any event, the claimant's strict reading of the words in Policy 3 as having only the one fixed meaning he contends for raises significant questions and difficulties which militate against his reading.
42. The claimant's reading involves, it would seem, the proposition that a site is immediately adjoining a settlement if it touches the land within the settlement at some point but with no physical division between the site and the settlement.
43. As the defendant argues, within what is accepted to be the settlement itself there are roads, as one would always expect. Yet it is not arguable that the settlement of Trevarrian should be regarded as a series of sub-divisions because developed areas are

separated by roads. Necessarily, therefore, there is an issue as to whether a road is part of the settlement or not.

44. As I have already said, the claimant argues here that the road, Trevarrian Hill, in effect marks the boundary of the settlement (to the west) but is not within the settlement, so that land the other side of the road is not “immediately adjoining” the settlement. However, the bounds of a settlement are not fixed in time and both Beacon House East and West and Shrub Cottage have been regarded by some as within the settlement of Trevarrian.
45. What that makes clear is that the relevance of the road is a matter of judgment and perhaps local knowledge. The road itself may be regarded as within the settlement and, in the present case, as Mr Brett pointed out the driveway which runs to the road would not then be separated from the settlement by any physical feature.
46. The same issues would arise in the case of a physical feature such as a stream or a hedge or some other manmade structure which might be regarded as part of a settlement or a boundary to the settlement. In all such instances a sensible reading of the policy is one in which the question of whether the development site was immediately adjoining the settlement would involve an element of judgment and not one in which the physical divider necessarily rendered the site not “immediately adjoining”. As Mr Brett submitted, the consequences could involve the situation where because the site, despite some significant physical division, touched the settlement for 1cm, it was “immediately adjoining” whereas in other circumstances, where the site might more readily be said to be immediately adjoining, it was not. In short, it is not a question that can be answered applying a rigid test of the nature the claimant contends for.
47. These examples also illustrate the difficulty of applying the meaning the claimant contends for and defining what physical feature would cause the two pieces of land in question not to be immediately adjoining. Indeed, the facts of this case illustrate the difficulties. The PC relied not on the argument that the road formed a boundary¹ and separated Beacon House East from the settlement but on the factual assertion that there

¹ Mr Corbett also relied on the fact that in the Planning Statement, Trevarrian Hill was identified as the boundary of the settlement. Ms Wilson disputes that and says that that Trevarrian Hill is not the road referred to and could not be since she regards her property as being within the settlement.

was a field between the site and the coast road. That factual assertion is contested by the defendant and Ms Wilson. Ms Wilson's evidence is this:

"9. Beacon House West adjoins Beacon House East to the South. To the side of Beacon House West there is an additional garden, play area and gardens and further to the right is a field. The gardens and driveway for our properties are and I believe always have been part of the Trevarrian settlement and do not constitute open countryside. The driveway leads directly to Trevarrian Hill with a clear view of our neighbours, it is approximately 200ft by 30ft and is used to access both Beacon House East and Beacon House West

...

12. To the left of the driveway leaving the property is a small area of bushy undergrowth known as an Issues or Collect, that allows a small stream to gather excess rainfall. It has never been a field and not capable of being such. There is no field between my House directly to the Road." (Emphasis added)

48. I make two observations. Firstly, what this makes clear is that the argument as to why the site is not immediately adjoining the settlement has varied. Secondly, to the extent that the argument relies on the presence of a field, there is a dispute of fact. As I have already said, the road may or may not be regarded as part of the settlement.
49. What it seems to me this again serves to demonstrate is that the restrictive meaning of "immediately adjoining" that the claimant contends for is not right and that the words are apt to include "very near to" and "next to", and that whether the site falls within that meaning involves an exercise of judgment.
50. I should add further that the claimant relied on a decision to refuse permission to build at the southern end of the main body of the settlement where the Inspector applied Policy 7 and considered that the end of the cul-de-sac marked a clear boundary between the developed area and the countryside. Mr Corbett explained, and illustrated by reference to the plans, that permission was refused even though the development site adjoined the garden of a house within the settlement. I do not see that that assists in any way, as this was a planning decision on its own facts and the site was not previously developed.

Error of law

51. It follows, in my judgment, that the Officer's Report was not misleading in identifying that there was such a judgment to be exercised and the Minutes of the Committee meeting make it clear that that issue was properly debated.
52. I would add for completeness that the claimant placed particular reliance on the decision of Lieven J in the *Wiltshire Council* case. That case turned on the meaning of "dwelling" and specifically whether that meant a single residential unit or could mean the property as a whole. Lieven J decided that the word "dwelling" had a single fixed meaning. In reaching that decision, she had regard to the underlying policy which was one against the creation of new residential properties in isolated rural locations. Whilst, in the present case, there is also a general policy against development in open countryside, Policy 3 does permit such development in the circumstances provided for in that policy. I have addressed this issue at paragraph 38 above. There is nothing in Lieven J's decision that either requires me to conclude that the words "immediately adjoining" can only bear a single meaning the claimant contends for.
53. Accordingly, the claim is dismissed.

Appendix 8



Neutral Citation Number: [2017] EWCA Civ 1314

Case No: C1/2016/4488

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE ADMINISTRATIVE COURT
PLANNING COURT
MR JUSTICE GARNHAM
[2016] EWHC 2832 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 8 September 2017

Before:

The Chancellor of the High Court
Lord Justice Lindblom
and
Lord Justice Hickinbottom

Between:

Michael Mansell

Appellant

- and -

Tonbridge and Malling Borough Council

Respondent

- and -

(1) Croudace Portland
(2) The East Malling Trust

Interested
Parties

Ms Annabel Graham Paul (instructed by **Richard Buxton Environmental and Public Law**)
for the **Appellant**

Mr Juan Lopez (instructed by **Tonbridge and Malling Borough Council Legal Services**)
for the **Respondent**

The interested parties did not appear and were not represented

Hearing date: 4 July 2017

**Judgment Approved by the court
for handing down
(subject to editorial corrections)**

Lord Justice Lindblom:

Introduction

1. Should the judge in the court below have quashed a local planning authority’s grant of planning permission for the redevelopment of the site of a large barn and a bungalow to provide four dwellings? That is what we must decide in this appeal. It is contended that the authority misdirected itself in considering a “fallback position” available to the landowner, and also that it misapplied the “presumption in favour of sustainable development” in the National Planning Policy Framework (“the NPPF”) – a question that can now be dealt with in the light of this court’s recent decision in *Barwood Strategic Land II LLP v East Staffordshire Borough Council* [2017] EWCA Civ 893.
2. The appellant, Mr Michael Mansell, appeals against the order of Garnham J., dated 10 November 2016, dismissing his claim for judicial review of the planning permission granted on 13 January 2016 by the respondent, Tonbridge and Malling Borough Council, for development proposed by the first interested party, Croudace Portland, on land owned by the second interested party, the East Malling Trust, at Rocks Farm, The Rocks Road, East Malling. The proposal was to demolish the barn and the bungalow on the land and to construct four detached dwellings, with garages and gardens. Mr Mansell lives in a neighbouring property, at 132-136 The Rocks Road – a grade II listed building. He was an objector.
3. It was common ground that the proposal was in conflict with the development plan. Rocks Farm is outside the village of East Malling to its south-east, within the “countryside” as designated in the Tonbridge and Malling Borough Core Strategy. The site of the proposed development extends to about 1.3 hectares. The barn, about 600 square metres in area, had once been used to store apples. The bungalow was lived in by a caretaker. The application for planning permission came before the council’s Area 3 Planning Committee on 7 January 2016. In his reports to committee the council’s planning officer recommended that planning permission be granted, and that recommendation was accepted by the committee. The officer guided the members on the “fallback position” that was said to arise, at least partly, through the “permitted development” rights for changes of use from the use of a building as an agricultural building to its use as a dwelling-house, under Class Q in Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”).
4. Mr Mansell’s challenge to the planning permission attacked the officer’s approach to the “fallback position” and his assessment of the proposal on its planning merits. Garnham J. dismissed the claim for judicial review on all grounds. Permission to appeal was granted by McCombe L.J. on 21 February 2017.

The issues in the appeal

5. The appeal raises three main issues:
 - (1) whether the council correctly interpreted and lawfully applied the provisions of Class Q in the GPDO (ground 1 in the appellant’s notice);

- (2) whether the council was entitled to accept there was a real prospect of the fallback development being implemented (ground 2); and
- (3) whether the council misunderstood or misapplied the “presumption in favour of sustainable development” (ground 3).

Did the council correctly interpret and lawfully apply the provisions of Class Q?

6. When the council determined the application for planning permission the permitted development rights under Class Q were in these terms, so far is relevant here:

“Q. Permitted development

Development consisting of –

- (a) a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order; and
- (b) building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Q.1 Development not permitted

Development is not permitted by Class Q if –

- ...
- (b) the cumulative floor space of the existing building or buildings changing use under Class Q within an established agricultural unit exceeds 450 square metres;
- (c) the cumulative number of separate dwellinghouses developed under Class Q within an established agricultural unit exceeds 3;
- ...
- (g) the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;
- (h) the development under Class Q (together with any previous development under Class Q) would result in a building or buildings having more than 450 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;
-”

The permitted development rights under Class Q are subject to several “Conditions” in paragraph Q.2, none of them controversial here.

7. In section 6 of his main report to committee for its meeting on 7 January 2016 the officer dealt at length with the “Determining Issues”. In discussing those issues he considered the “fallback position” in paragraphs 6.14 to 6.19:

“6.14 In practical terms for this site, the new permitted development rights mean that the existing agricultural barn could be converted into three residential units. Some representations point out that only a proportion of the barn could be

converted in such a manner (up to 450sqm) but the remainder – a small proportion in terms of the overall footprint – could conceivably be left unconverted and the resultant impacts for the site in terms of the amount of residential activity would be essentially the same. The building could be physically adapted in certain ways that would allow for partial residential occupation and the extensive area of hardstanding which exists between the building and the northern boundary could be used for parking and turning facilities.

- 6.15 The existing bungalow within the site could be replaced in accordance with policy CP14 with a new residential building provided that it was not materially larger than the existing building. Such a scenario would, in effect, give rise to the site being occupied by a total of four residential units albeit of a different form and type to that proposed by this application. This provides a realistic fallback position in terms of how the site could be developed.
- 6.16 I appreciate that discussion concerning realistic ‘fallback’ positions is rather complicated but, in making an assessment of any application for development, we are bound to consider what the alternatives might be for a site: in terms of what could occur on the site without requiring any permission at all (historic use rights) or using permitted development rights for alternative forms of development.
- 6.17 In this instance a scheme confined to taking advantage of permitted development would, in my view, be to the detriment of the site as a whole in visual terms. Specifically, it would have to be developed in a contrived and piecemeal fashion in order to conform to the requirements of the permitted development rights, including the need to adhere to the restrictions on the floor space that can be converted using the permitted development rights.
- 6.18 I would also mention that should the applicant wish to convert the entire barn for residential purposes, above the permitted development thresholds, such a scheme (subject to detailed design) would wholly accord with adopted policy. Again, this provides a strong indicator as to how the site could be developed in an alternative way that would still retain the same degree of residential activity as proposed by the current application but in a more contrived manner and with a far more direct physical relationship with the nearest residential properties.
- 6.19 The current proposal therefore, in my view, offers an opportunity for a more comprehensive and coherent redevelopment of the site as opposed to a more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights.”
8. For Mr Mansell, Ms Annabel Graham Paul submitted to us, as she did to the judge, that the officer’s advice in those six paragraphs betrays a misunderstanding of the provisions of Class Q in the GPDO, in particular sub-paragraphs Q.1(b) and Q.1(h). She argued that the restriction to 450 square metres in sub-paragraph Q.1(b) applies to the total floor space of the agricultural building or buildings in question, not to the floor space actually “changing use”. Before the judge, though not in her submissions in this court, Ms Graham Paul sought to bolster that contention with a passage in an inspector’s decision letter

relating to a proposal for development on a site referred to by the judge as “Mannings Farm”. The inspector had observed that “[the] floor space of the existing building ... far exceeds the maximum permitted threshold, of 450 sq m, as set out in [sub-paragraph] Q.1(b)”, and that “the intention is to reduce the size of the building as part of the proposal but Q.1(b) clearly relates to existing floorspace and there is no provision in the GPDO for this to be assessed on any other basis”.

9. Garnham J. rejected Ms Graham Paul’s argument. In paragraph 30 of his judgment he said:

“30. In my judgment this construction of paragraph Q.1(b) fails because it disregards the definition section of the Order. The critical expression in subparagraph (b) is *“the existing building or buildings”*. Paragraph 2 of the Order defines *“building”* as *“any part of a building”*. Accordingly, the paragraph should be read as meaning *“the cumulative floor space of the existing building or any part of the building changing use ...”*. If that is right, it is self-evident that the limit on floor space relates only to that part of the building which is changing use.”

10. The judge found support for that conclusion in several inspectors’ decisions, one of them a decision on proposed development at Bennetts Lane, Binegar in Somerset. In correspondence in that case the Department for Communities and Local Government had pointed to the definition of a “building” in the “Interpretation” provisions in paragraph 2 of the GPDO. Because that definition included “any part of a building”, their view was that “in the case of a large agricultural building, part of it could change use ... and the rest remain in agricultural use” (paragraph 32 of the judgment). However, as was accepted on both sides in this appeal, the court must construe the provisions of the GPDO for itself, applying familiar principles of statutory interpretation.

11. In paragraph 34 of his judgment Garnham J. said this:

“34. Ms Graham Paul contends that that construction of subparagraph (b) means that it adds nothing to subparagraph (h). I can see the force of that submission and, as a matter of first principle, statutory provisions should be construed on the assumption that the draftsman was intending to add something substantive by each relevant provision. Nonetheless, giving the interpretation section its proper weight, I see no alternative to the conclusion that Class Q imposes a floor space limit on those parts of the buildings which will change use as a result of the development. In those circumstances, I reject the Claimant's challenge to the Officer's construction of the Class Q provisions in the 2015 Order.”

12. Ms Graham Paul submitted that this interpretation of the relevant provisions would render sub-paragraph Q.1(b) of Class Q redundant, because sub-paragraph Q.1(h) already limits the residential floor space resulting from the change of use under Class Q to a maximum of 450 square metres. The statutory provisions for permitted development rights in the GPDO ought to be interpreted consistently. The interpretation favoured by the judge, submitted Ms Graham Paul, depends on reading into sub-paragraph Q.1(b) the additional words “any part of a building” after the words “the existing building or buildings”, which, she said, is wholly unnecessary. Statutory provisions ought to be construed on the

assumption that the draftsman was intending to add something of substance in each provision. The judge's interpretation offends that principle, said Ms Graham Paul, because it would, in effect, subsume sub-paragraph Q.1(b) into sub-paragraph Q.1(h). Only her interpretation of sub-paragraph Q.1(b) would enable sub-paragraph Q.1(h) to add something of substance to the provisions of Class Q. And in principle, Ms Graham Paul argued, it makes good sense to prevent, without an express grant of planning permission, the partial conversion of large agricultural buildings to accommodate residential use, leaving other parts of the building either in active agricultural use or simply vacant.

13. Ms Graham Paul sought to reinforce these submissions by pointing to other provisions of the GPDO where similar wording is used: Class M, which provides permitted development rights for changes of use of buildings in retail or betting office or pay day loan shop use to Class C3 use, and states in sub-paragraph M.1(c) that development is not permitted if “the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres”; and Class N, which provides permitted development rights for changes of use from specified sui generis uses, including use as an amusement arcade or centre, and use as a casino, to Class C3 use, and states in sub-paragraph N.1(b) that development is not permitted if “the cumulative floor space of the existing building changing use under Class N exceeds 150 square metres”.
14. I cannot accept Ms Graham Paul's argument. I think the judge's understanding of Class Q was correct. The provisions of Class Q relating to the scope of permitted development rights should be given their literal meaning. When this is done, they make perfectly good sense in their statutory context and do not give rise to any duplication or redundancy.
15. The focus here is on the provisions as to development that is “not permitted” under paragraph Q.1, and in particular the provisions of sub-paragraphs Q.1(b) and Q.1(h). Sub-paragraph Q.1(b) establishes the “cumulative floor space of the existing building or buildings” that is “changing use under Class Q ...”. The limit on such “cumulative floor space ...” is 450 square metres. This restriction is stated to be a restriction on the change of use, not on the size of the building or buildings in which the change of use occurs. Sub-paragraph Q.1(b) relates to a single act of development in which the building in question, or part of it, is “changing use”. The floor space limit set by it relates not to the total floor space of the building or buildings concerned. It relates, as one would expect, to the permitted development rights themselves, which apply to the “cumulative” amount of floor space actually “changing use under Class Q”. The use of the word “cumulative” in this context – as elsewhere in the GPDO – is perfectly clear. It connotes, in relevant circumstances, the adding together of separate elements of floor space within a building or buildings, or, again in relevant circumstances, a single element of floor space, which in either case must not exceed 450 square metres. The total floor space of the building or buildings concerned may itself be more than 450 square metres. But the cumulative amount of floor space whose use is permitted to be changed within that total floor space must not exceed 450 square metres.
16. This interpretation of sub-paragraph Q.1(b) avoids arbitrary consequences in the application of the permitted development rights under Class Q. It does not make the availability of those rights for a qualifying “agricultural building” depend on the total floor space of the building itself. It would not, therefore, create a situation in which the permitted development rights under Class Q would be available for a building whose total floor space was 450 square metres, but not for a building with a floor space of 451 square

metres or an area greater than that. If the consequence is that the permitted development rights, when fully used, would result in a building partly in use as a dwelling-house and partly still in agricultural use, that is an outcome contemplated by the GPDO. I see no difficulty in that.

17. Had the draftsman intended to confer permitted development rights under Class Q only to a building or buildings whose total floor space was not more than 450 square metres, the relevant provision would have been framed differently. There would have been no need to use the word “cumulative” or some other such word. The provision would simply have stated, for example, “the total floor space of the existing building or buildings within an established agricultural unit in which the change of use under Class Q is being undertaken does not exceed 450 square metres”. But that is not what sub-paragraph Q.1(b) says, or, in my view, what it means.
18. Nor can I see how an interpretation of sub-paragraph Q.1(b) in which the restriction of 450 square metres applies not to the floor space actually changing use but to the total floor space of the building or buildings in which the change of use is taking place can be reconciled with the definition of “building” in paragraph 2 of the GPDO as including “part of a building”. Unless one disapplies that part of the definition of a building to sub-paragraph Q.1(b), one must read that provision as meaning “the cumulative floor space of the existing building or buildings or part of a building changing use under Class Q ... exceeds 450 square metres” (my emphasis). That understanding of sub-paragraph Q.1(b) would not sit happily with the concept that the restriction of 450 square metres applies not to the floor space changing use but to the total floor space of the building itself.
19. My interpretation of sub-paragraph Q.1(b) does not leave sub-paragraph Q.1(h) redundant. Sub-paragraph Q.1(h) achieves a different purpose. It prevents, for example, a change of use as “permitted development” in an agricultural building of which part is already in Class C3 use, or an aggregation of successive changes of use through separate acts of development, that would result in more than 450 square metres of floor space in a building or buildings being in Class C3 use. Neither of those outcomes would necessarily be prevented by sub-paragraph Q.1(b).
20. Finally, there is nothing in the provisions of Class M and Class N, or in any other provision of the GPDO, to suggest a different understanding of Class Q. The provisions in sub-paragraphs M.1(c) and N.1(b) also contain the word “cumulative” in referring to the floor space “changing use”, not to the total floor space of the “existing building or buildings” in which the change of use is taking place. And in both Class M and Class N the draftsman has also included a provision – respectively in sub-paragraphs M.1(d) and N.1(c) – stating that “the development (together with any previous development under [the relevant class]) would result in more than 150 square metres of floor space in the building having changed use under [the relevant class]”. Although we are not deciding those questions, it seems to me that the same analysis would hold good for those provisions too.
21. In my view, therefore, the officer did not misrepresent the permitted development rights under Class Q in his advice to the committee on the “fallback position”. The provisions of Class Q were correctly interpreted and lawfully applied.

Was the council entitled to accept that there was a real prospect of the fallback development being implemented?

22. Garnham J. accepted that the council was entitled to conclude that there was a “realistic” fallback. In paragraphs 36 and 37 of his judgment he said:

“36. In paragraph 6.15 of the report the Officer concluded that the fall back position was “realistic”. In my judgment he was entitled so to conclude. The evidence establishes that there had been prior discussions between the Council and the Planning Agent acting for the East Malling Trust who owns the site. It was crystal clear from that contact that the Trust were intending, one way or another to develop the site. Alternative proposals had been advanced seeking the Council’s likely reaction to planning applications. It is in my view wholly unrealistic to imagine that were all such proposals to be turned down the owner of the site would not take advantage of the permitted development provided for by Class Q to the fullest extent possible.

37. It was not a precondition to the Council’s consideration of the fall back option that the interested party had made an application indicating an intention to take advantage of Class Q. There was no requirement that there be a formulated proposal to that effect. The officer was entitled to have regard to the planning history which was within his knowledge and the obvious preference of the Trust to make the most valuable use it could of the site.”

23. The judge accepted the submission of Mr Juan Lopez for the council that the committee did not have to ignore fallback development that included elements for which planning permission would be required and had not yet been granted. He noted that “[the] building could be converted, so as to provide dwelling houses limited in floor space to 450m² by the construction of internal walls without using the whole of the internal space of the barn” (paragraph 40). And he went on to say (in paragraph 41):

“41. In my judgment therefore, it would have been unrealistic to have concluded that, were the present application for permission to be rejected, the interested party would do nothing to develop this site. On the contrary it was plain that development was contemplated and that some development could have taken place pursuant to Class Q. The Council was entitled to have regard to the fact that there might be separate applications for permission in respect of some elements of the scheme and to advise that appropriate regard must be had to material planning considerations including the permitted development fall back position. Accordingly I reject the second element of the Claimant's challenge on ground 1.”

24. Ms Graham Paul criticized the judge’s approach. She said it would enable permitted development rights under the GPDO to be relied on as a fallback even where there was no evidence that the landowner or developer would in fact resort to such development. The judge did not consider whether the council had satisfied itself that there was a “real prospect” of the fallback development being implemented (see the judgment of Sullivan L.J. in *Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government* [2009] J.P.L. 1326, at paragraph 21). The “real prospect”, submitted Ms Graham Paul, must relate to a particular fallback development contemplated by the

landowner or developer, not merely some general concept of development that might be possible on the site. Only a specific fallback makes it possible for a comparison to be made between the planning merits of the development proposed and the fallback development. The relevance of a fallback depends on there being a “finding of actually intended use as opposed to a mere legal or theoretical entitlement” (see the judgment of Mr Christopher Lockhart-Mummery Q.C., sitting as a deputy judge of the High Court, in *R. v Secretary of State for the Environment and Havering London Borough Council, ex parte P.F. Ahern (London) Ltd.* [1998] Env. L.R. 189, at p.196).

25. Ms Graham Paul said there was nothing before the council to show that either the East Malling Trust or Croudace Portland contemplated the site being developed in the way the officer described in his report. On the contrary, the conversion of the barn for residential use – as opposed to its demolition and replacement with new dwellings – seems to have been regarded as impracticable or uneconomic. The East Malling Trust’s planning consultant, Broadlands Planning Ltd., had submitted a “Planning Statement” to the council in December 2013, seeking the council’s advice before the submission of an application for planning permission. In that document two possible schemes for the site were referred to (at paragraph 26). Neither could have been achieved using permitted development rights. One involved the retention of the barn and its conversion to four dwelling-houses, the other a “wholesale redevelopment of the site”, perhaps with the replacement of the bungalow, to create five new dwellings. In a letter to Broadlands Planning Ltd. dated 30 January 2014 the council’s Senior Planning Officer, Ms Holland, said she was “not convinced that the proposal would result in the building being converted, but rather [that] large portions would be removed and a new building created”. And the East Malling Trust’s marketing agent, Smiths Gore, in a letter to potential developers dated 27 February 2014, suggested it was “unlikely that a developer would contemplate the conversion of the Apple Store”. There was, said Ms Graham Paul, no other contemporaneous evidence to lend substance to the fallback scheme to which the officer referred in his report, and no evidence of the council trying to find out what, if anything, was actually contemplated. The evidence did not demonstrate a “real prospect” – as opposed to a merely “theoretical” prospect – of such a development being carried out. The judge should have recognized that the fallback development referred to in the officer’s report was not a material consideration.
26. I cannot accept that argument. In my view the officer did not misunderstand any principle of law relating to a fallback development. His advice to the members was sound.
27. The status of a fallback development as a material consideration in a planning decision is not a novel concept. It is very familiar. Three things can be said about it:
 - (1) Here, as in other aspects of the law of planning, the court must resist a prescriptive or formulaic approach, and must keep in mind the scope for a lawful exercise of planning judgment by a decision-maker.
 - (2) The relevant law as to a “real prospect” of a fallback development being implemented was applied by this court in *Samuel Smith Old Brewery* (see, in particular, paragraphs 17 to 30 of Sullivan L.J.’s judgment, with which the Master of the Rolls and Toulson L.J. agreed; and the judgment of Supperstone J. in *R. (on the application of Kverndal) v London Borough of Hounslow Council* [2015] EWHC 3084 (Admin), at paragraphs 17 and 42 to 53). As

Sullivan L.J. said in his judgment in *Samuel Smith Old Brewery*, in this context a “real” prospect is the antithesis of one that is “merely theoretical” (paragraph 20). The basic principle is that “... for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice” (paragraph 21). Previous decisions at first instance, including *Ahern* and *Brentwood Borough Council v Secretary of State for the Environment* [1996] 72 P. & C.R. 61 must be read with care in the light of that statement of the law, and bearing in mind, as Sullivan L.J. emphasized, “... “fall back” cases tend to be very fact-specific” (ibid.). The role of planning judgment is vital. And “[it] is important ... not to constrain what is, or should be, in each case the exercise of a broad planning discretion, based on the individual circumstances of that case, by seeking to constrain appeal decisions within judicial formulations that are not enactments of general application but are themselves simply the judge’s response to the facts of the case before the court” (paragraph 22).

- (3) Therefore, when the court is considering whether a decision-maker has properly identified a “real prospect” of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the “real prospect” will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker’s planning judgment in the particular circumstances of the case in hand.
28. In this case, in the circumstances as they were when the application for planning permission went before the committee, it was plainly appropriate, indeed necessary, for the members to take into account the fallback available to the East Malling Trust as the owner of the land, including the permitted development rights arising under Class Q in the GPDO and the relevant provisions of the development plan, in particular policy CP14 of the core strategy. Not to have done so would have been a failure to have regard to a material consideration, and thus an error of law.
29. That the East Malling Trust was intent upon achieving the greatest possible value from the redevelopment of the site for housing had by then been made quite plain. The “Planning Statement” of December 2013 had referred to two alternative proposals for the redevelopment of the site (paragraph 26), pointing out that both “[the] redevelopment and replacement of [the] bungalow” and “[the] conversion of the existing storage and packing shed” were “permissible in principle” (paragraph 35). The firm intention of the East Malling Trust to go ahead with a residential development was entirely clear at that stage.
30. In my view it was, in the circumstances, entirely reasonable to assume that any relevant permitted development rights by which the East Malling Trust could achieve residential development value from the site would ultimately be relied upon if an application for planning permission for the construction of new dwellings were refused. That was a simple and obvious reality – whether explicitly stated by the East Malling Trust or not. It was accurately and quite properly reflected in the officer’s report to committee. It is

reinforced by evidence before the court – in the witness statement of Mr Humphrey, the council’s Director of Planning, Housing and Environmental Health, dated 18 March 2016 (in paragraphs 6 to 24), in the witness statement of Mr Wilkinson, the Land and Sales Manager of Croudace Portland, also dated 18 March 2016 (in paragraphs 4 to 7), in the first witness statement of Ms Flanagan, the Property and Commercial Director of the East Malling Trust, dated 17 March 2016 (in paragraphs 4 to 6), and in Ms Flanagan’s second witness statement, dated 17 June 2016 (in paragraphs 2 to 5).

31. As Ms Flanagan says (in paragraph 2 of her second witness statement):

“2. At paragraph 6 of my first witness statement, I state that there was no doubt that the Trust would consider alternatives to the preferred scheme. To further amplify, the Trust (as a charitable body) is tasked with obtaining best value upon the disposal of its assets. A number of alternative uses were considered for the site, including industrial uses. However the Board was aware that a residential scheme of some type would provide the best value for the application land, even were that to include a conversion of the existing agricultural building.”

Ms Flanagan goes on to refer to Smiths Gore’s letter of 27 February 2014 (in paragraphs 4 and 5):

“4. ... This letter ... states that at that time [Smith Gore’s] opinion was that it was unlikely that a scheme of conversion would be contemplated by any developer. However, this letter pre-dated the permitted development rights that subsequently came into effect in April 2014. By the time the planning application had formally been submitted, these permitted development rights were in effect.

5. Had no other scheme proven acceptable in planning terms, and if planning permission had been refused for the development the subject of the planning application, the Trust would have built out a “permitted development” scheme to the fullest extent possible in order to realise the highest value for the land, in order to thereafter seek disposal to a developer.”

32. That evidence is wholly unsurprising. And it confirms the East Malling Trust’s intentions as they were when the council made its decision to grant planning permission in January 2016, by which time the current provisions for “permitted development” under Class Q of the GPDO had come into effect. It states the East Malling Trust’s position as landowner at that stage – as opposed to the view expressed by an officer of the council, and an opinion by a marketing agent in a letter to developers, almost two years before. It is consistent with what was being said on behalf of the East Malling Trust in its dealings with the council from the outset – in effect, that the site was going to be redeveloped for housing even if this had to involve the conversion and change of use of the barn to residential use. It reflects the fiduciary duty of the trustees. And it bears out what the council’s officer said about the “fallback position” in his report to committee.

33. I do not see how it can be said that the officer’s assessment of the “fallback position”, which the committee adopted, offends any relevant principle in the case law – in particular the concept of a “real prospect” as explained by Sullivan L.J. in *Samuel Smith Old*

Brewery. It was, in my view, a faithful application of the principles in the authorities in the particular circumstances of this case. It also demonstrates common sense.

34. The officer did not simply consider the fallback in a general way, without regard to the facts. He considered it in specific terms, gauging the likelihood of its being brought about if the council were to reject the present proposal. In the end, of course, these were matters of fact and planning judgment for the committee. But the officer's advice in paragraphs 6.14 to 6.19 of his report was, I believe, impeccable. He was right to say, in paragraph 6.14, that the "new permitted development rights" – under Class Q in the GPDO – would enable the barn to be converted into three residential units; in the same paragraph, that the building "could be physically adapted in certain ways that would allow for partial residential occupation ..."; and, in paragraph 6.15, that the bungalow "could be replaced in accordance with policy CP14 with a new residential building provided that it was not materially larger than the existing building". He was also right to say, therefore, that the site could be developed for "four residential units albeit of a different form and type to that proposed by this application". All of this was factually correct, and represented what the council knew to be so. It did not overstate the position. It went no further than the least that could realistically be achieved by way of a fallback development – through the use of permitted development rights under Class Q and an application for planning permission complying with policy CP14.
35. The officer also guided the committee appropriately in what he said about the realism of the "fallback position". At the end of paragraph 6.15 of his report he said that the fallback development he had described was "a realistic fallback position in terms of how the site could be developed". He was well aware of the need to take into account only a fallback development that was truly "realistic", not merely "theoretical". He came back, in paragraph 6.16, to the question of "realistic 'fallback' positions", again reminding the members that this was what had to be considered. He went on to acknowledge, rightly, that the council had to consider what could be achieved "using permitted development rights for alternative forms of development". The context for this advice was that in his view, as he said in paragraph 6.15, he was dealing with "a realistic fallback position". He went on in paragraph 6.17 to consider what "would" happen if a scheme taking advantage of permitted development rights came forward. And in paragraph 6.18 his advice was that a redevelopment involving the conversion of "the entire barn for residential purposes, above the permitted development thresholds ... would wholly accord with adopted policy". That was a legally sound planning judgment. The same may also be said of the officer's conclusion in paragraph 6.19, where he compared the proposal before the committee with the "more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights".
36. In short, none of the advice given to the council's committee on the "fallback position" can, in the particular circumstances of this case, be criticized. It was, I think, unimpeachable.
37. In my view, therefore, the council was entitled to accept that there was a "real prospect" of the fallback development being implemented, and to give the weight it evidently did to that fallback as a material consideration. In doing so, it made no error of law.

Was the judge right to conclude that the council did not misunderstand or misapply the “presumption in favour of sustainable development” in the NPPF?

38. Paragraph 14 of the NPPF states:

“14. At the heart of [the NPPF] is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

...

For decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in [the NPPF] taken as a whole; or
 - specific policies in [the NPPF] indicate development should be restricted.”

39. In *Barwood v East Staffordshire Borough Council* this court stated its understanding of the policy for the “presumption in favour of sustainable development” in the NPPF, and how that presumption is intended to operate (see paragraphs 34 and 35 of my judgment). In doing so, it approved the relevant parts of the judgment of Holgate J. in *Trustees of the Barker Mill Estates v Secretary of State for Communities and Local Government* [2016] EWHC 3028 (Admin) (in particular paragraphs 126, 131, 136, and 140 to 143). Three simple points emerged (see paragraph 35 of my judgment). The first and second of those three points need not be set out again here. The third, however, is worth repeating – because it bears on the issue we are considering now. I shall emphasize the most important principle for our purposes here:

“ ...

- (3) When the section 38(6) duty is lawfully performed, a development which does not earn the “presumption in favour of sustainable development” – and does not, therefore, have the benefit of the “tilted balance” in its favour – may still merit the grant of planning permission. On the other hand, a development which does have the benefit of the “tilted balance” may still be found unacceptable, and planning permission for it refused This is the territory of planning judgment, where the court will not go except to apply the relevant principles of public law The “presumption in favour of sustainable development” is not irrebuttable. Thus, in a case where a proposal for the development of housing is in conflict with a local plan whose policies for the supply of housing are out of date, the decision-maker is left to judge, in the particular circumstances of the case in hand, how much weight should be given to that conflict. The absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission. This is not a matter of law. It is a matter of planning judgment (see paragraphs 70 to

74 of the judgment in [*Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin)].”

40. The judgments in this court in *Barwood v East Staffordshire Borough Council* entirely supersede the corresponding parts of several judgments at first instance – including, most recently, *Reigate and Banstead Borough Council v Secretary of State for Communities and Local Government* [2017] EWHC 1562 (Admin). In those cases, judges in the Planning Court have offered various interpretations of NPPF policy for the “presumption in favour of sustainable development”, and have explained how, in their view, the presumption should work. There is no need for that to continue. After the decision of the Court of Appeal in *Barwood v East Staffordshire Borough Council*, it is no longer necessary, or appropriate, to cite to this court or to judges in the Planning Court any of the first instance judgments in which the meaning of the presumption has been considered.
41. The Planning Court – and this court too – must always be vigilant against excessive legalism infecting the planning system. A planning decision is not akin to an adjudication made by a court (see paragraph 50 of my judgment in *Barwood v East Staffordshire Borough Council*). The courts must keep in mind that the function of planning decision-making has been assigned by Parliament, not to judges, but – at local level – to elected councillors with the benefit of advice given to them by planning officers, most of whom are professional planners, and – on appeal – to the Secretary of State and his inspectors. They should remember too that the making of planning policy is not an end in itself, but a means to achieving reasonably predictable decision-making, consistent with the aims of the policy-maker. Though the interpretation of planning policy is, ultimately, a matter for the court, planning policies do not normally require intricate discussion of their meaning. A particular policy, or even a particular phrase or word in a policy, will sometimes provide planning lawyers with a “doctrinal controversy”. But even when the higher courts disagree as to the meaning of the words in dispute, and even when the policy-maker’s own understanding of the policy has not been accepted, the debate in which lawyers have engaged may turn out to have been in vain – because, when a planning decision has to be made, the effect of the relevant policies, taken together, may be exactly the same whichever construction is right (see paragraph 22 of my judgment in *Barwood v East Staffordshire Borough Council*). That of course may not always be so. One thing, however, is certain, and ought to be stressed. Planning officers and inspectors are entitled to expect that both national and local planning policy is as simply and clearly stated as it can be, and also – however well or badly a policy is expressed – that the court’s interpretation of it will be straightforward, without undue or elaborate exposition. Equally, they are entitled to expect – in every case – good sense and fairness in the court’s review of a planning decision, not the hypercritical approach the court is often urged to adopt.
42. The principles on which the court will act when criticism is made of a planning officer’s report to committee are well settled. To summarize the law as it stands:
 - (1) The essential principles are as stated by the Court of Appeal in *R. v Selby District Council, ex parte Oxton Farms* [1997] E.G.C.S. 60 (see, in particular, the judgment of Judge L.J., as he then was). They have since been confirmed several times by this court, notably by Sullivan L.J. in *R. (on the application of Siraj) v Kirklees Metropolitan Borough Council* [2010] EWCA Civ 1286, at paragraph 19, and applied in many cases at first instance (see, for example, the judgment of Hickinbottom J., as he then was, in *R. (on the application of*

Zurich Assurance Ltd., t/a Threadneedle Property Investments) v North Lincolnshire Council [2012] EWHC 3708 (Admin), at paragraph 15).

- (2) The principles are not complicated. Planning officers' reports to committee are not to be read with undue rigour, but with reasonable benevolence, and bearing in mind that they are written for councillors with local knowledge (see the judgment of Baroness Hale of Richmond in *R. (on the application of Morge) v Hampshire County Council* [2011] UKSC 2, at paragraph 36, and the judgment of Sullivan J., as he then was, in *R. v Mendip District Council, ex parte Fabre* (2000) 80 P. & C.R. 500, at p.509). Unless there is evidence to suggest otherwise, it may reasonably be assumed that, if the members followed the officer's recommendation, they did so on the basis of the advice that he or she gave (see the judgment of Lewison L.J. in *Palmer v Herefordshire Council* [2016] EWCA Civ 1061, at paragraph 7). The question for the court will always be whether, on a fair reading of the report as a whole, the officer has materially misled the members on a matter bearing upon their decision, and the error has gone uncorrected before the decision was made. Minor or inconsequential errors may be excused. It is only if the advice in the officer's report is such as to misdirect the members in a material way – so that, but for the flawed advice it was given, the committee's decision would or might have been different – that the court will be able to conclude that the decision itself was rendered unlawful by that advice.
- (3) Where the line is drawn between an officer's advice that is significantly or seriously misleading – misleading in a material way – and advice that is misleading but not significantly so will always depend on the context and circumstances in which the advice was given, and on the possible consequences of it. There will be cases in which a planning officer has inadvertently led a committee astray by making some significant error of fact (see, for example *R. (on the application of Loader) v Rother District Council* [2016] EWCA Civ 795), or has plainly misdirected the members as to the meaning of a relevant policy (see, for example, *Watermead Parish Council v Aylesbury Vale District Council* [2017] EWCA Civ 152). There will be others where the officer has simply failed to deal with a matter on which the committee ought to receive explicit advice if the local planning authority is to be seen to have performed its decision-making duties in accordance with the law (see, for example, *R. (on the application of Williams) v Powys County Council* [2017] EWCA Civ 427). But unless there is some distinct and material defect in the officer's advice, the court will not interfere.

43. Was the officer's advice to the members in this case flawed in that way? I do not think so.

44. In paragraph 6.1 of his report the officer said:

“6.1 As Members are aware, the Council in its role as Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise. ... The NPPF and the associated [Planning Practice Guidance] are important material considerations.”

He went on to consider the relevant policies of the development plan, in particular policies CP11, CP12, CP13 and CP14 of the core strategy, and then advised the committee, in paragraph 6.6:

“6.6 With the above policy context in mind, it is clear that the proposal relates to new development outside the village confines (on land which is not defined as “previously developed” for the purposes of applying NPPF policy), is not part of a wider plan of farm diversification and is not intended to provide affordable housing as an exceptions site. Consequently, the proposed development falls outside of the requirements of these policies and there is an objection to the principle of the proposed development in the broad policy terms.”

and in paragraph 6.7:

“6.7 It is therefore necessary to establish whether any other material planning considerations exist that outweigh the policy objections to the scheme in these particular circumstances.”

45. In paragraph 6.8 the officer acknowledged, in the light of the relevant guidance in the Planning Practice Guidance, that “the policies contained in ... the NPPF are material considerations and must be taken into account”, and, in paragraph 6.9, that since the core strategy had been adopted in 2007 it was “necessary to establish how consistent the above policies are with the policies contained within the NPPF”. His advice in paragraphs 6.10 to 6.13 of his report was this:

“6.10 With this in mind, it must be noted that paragraph 49 of the NPPF states that applications for new housing development should be considered in the context of the presumption in favour of sustainable development. Paragraph 50 of the NPPF emphasises the importance of providing a wide choice of high quality homes, to widen opportunities for home ownership and create sustainable, inclusive and mixed communities. Paragraph 55 states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

6.11 These criteria all demonstrate a clear government momentum in favour of sustainable development to create new homes and drive economic development. The proposed development would create four high quality new homes on the very edge of an existing village settlement.

6.12 A further indicator of such emphasis is borne out of the recent changes to the regime of permitted development rights set out by national government by the Town and Country Planning (General Permitted Development) Order 2015. This allows for far more development to take place without the need for planning permission from Local Authorities and generally provides a steer as to government’s thinking on how to boost the country’s economy through the delivery of new homes.

6.13 Such continued emphasis from government is a material consideration that must be balanced against the policy context set out in the TMBCS.”

46. I have already referred to the officer's advice on the "fallback position" in paragraphs 6.14 to 6.19 of his report. In paragraphs 6.20 to 6.42 he considered the planning merits of the proposal and its advantages by comparison with the fallback development, drawing the committee's attention to relevant policies both in the core strategy and in the NPPF. He advised that the design and density of the proposed development were acceptable and beneficial (paragraphs 6.20 to 6.23). In paragraph 6.24 he said:

"6.24 With these considerations in mind, particularly the emphasis contained within the NPPF concerning sustainable development generally, the impetus behind the provision of new homes, the benefits of removing existing structures and the permitted development "fallback" position, it is my view that, on balance, other material considerations can weigh in favour of the grant of planning permission."

47. He concluded that the effects of the development on the settings of listed buildings and the setting of East Malling Conservation Area would not be harmful (paragraphs 6.25 to 6.30). He also found the proposed arrangements for access to the site and for car parking acceptable (paragraphs 6.31 to 6.36). He advised that "... the existing barn could be partially converted and the existing access retained for use by those units which arguably could have a greater impact on amenity in terms of activity, noise and disturbance than the proposed development simply by virtue of the greater degree of proximity to the existing residential properties" (paragraph 6.33). He told the committee that in his view it "would be counterproductive to seek affordable housing contributions as this would merely limit the ability of the Trust to recycle funds to provide wider support for the Trust" (paragraph 6.37). And the loss of Grade 2 agricultural land was "not ... a justifiable reason to refuse planning permission ..." (paragraph 6.39).

48. The final paragraph of the officer's report is paragraph 6.42, where he said this:

"6.42 In conclusion, it is important to understand that the starting point for the determination of this planning application rests with the adopted Development Plan. Against that starting point there are other material planning considerations that must be given appropriate regard, not least the requirements set out within the NPPF which is an important material consideration and the planning and design of the proposal for the site in the context of the permitted development fallback position. The weight to attribute to each of those other material planning considerations, on an individual and cumulative basis, and the overall balance is ultimately a matter of judgement for the Planning Committee. My view is that the balance can lie in favour of granting planning permission."

49. In recording the argument on this issue in the court below, Garnham J. noted Ms Graham Paul's submission that "the presumption in favour of sustainable development set out in paragraph 14 of [the NPPF] was not operative" in this case – because the development plan was in place and up-to-date and the council was able to demonstrate a five-year supply of deliverable housing sites (paragraph 43 of the judgment). Ms Graham Paul had conceded that "sustainability may be capable of being a material consideration in considering a conflict with a development plan". What the officer had done in paragraph 6.10 of his report, said the judge, had been "to invite the committee to note the effect of paragraphs 49, 50 and 55 [of the NPPF]". It was not suggested that those paragraphs of the

NPPF had been misrepresented. Nor was it suggested that the officer had failed to point out that the proposed development “fell outside the local plan”; he had done that in paragraph 6.6 of his report. In those circumstances, said the judge, “it cannot sensibly be argued that the officer misled the committee in any material respect” (paragraph 47). The judge also rejected the submission that paragraphs 49, 50 and 55 of the NPPF were irrelevant. He observed that the NPPF “provides for a presumption in favour of sustainable development which it says should be seen “as a golden thread” running through decision-taking”. He added that “[the] weight to be given to those considerations in any given case is a matter for the planning authority but it cannot, at least on facts such as the present, be said that the underlying principle is irrelevant” (paragraph 48). He rejected the submission that the officer had not justified the departure from the development plan. The officer’s report, he said, “accurately and fairly sets out the competing considerations and it was a matter for the judgment of the planning authority how those considerations were resolved” (paragraph 49).

50. In the submissions they made to us at the hearing, though not in their respective skeleton arguments, both Ms Graham Paul and Mr Lopez recast their arguments in the light of what this court has now said about the “presumption in favour of sustainable development” in *Barwood v East Staffordshire Borough Council*, including the basic point that the presumption is contained solely in paragraph 14 of the NPPF (see paragraph 35 of my judgment in that appeal). They were right to do so.
51. It was common ground before us, as it was in the court below, that the “presumption in favour of sustainable development” did not apply to the proposal. And the council’s officer did not advise the committee that it did. As Ms Graham Paul acknowledged, the only reference to the “presumption in favour of sustainable development” in the officer’s report is in the first sentence of paragraph 6.10. But, she submitted, in view of what the officer said in that paragraph of the report, and also in paragraph 6.42, we should conclude that the committee took the presumption into account as a material consideration, which it ought it not to have done. Ms Graham Paul did not submit that the proposal was given the benefit of the so called “tilted balance”. But she argued that the effect of the officer’s advice was that the “presumption in favour of sustainable development” was one of the “requirements set out within the NPPF ...”, which the officer treated as “an important material consideration” and a significant factor weighing in favour of the proposal in the planning balance.
52. I disagree. In my view the argument fails on a straightforward reading of the officer’s report, in the light of the judgments in this court in *Barwood v East Staffordshire Borough Council*. I do not accept that the officer counted the “presumption in favour of sustainable development” as a material consideration weighing in favour of planning permission being granted.
53. The reference to the “presumption in favour of sustainable development” in paragraph 6.10 of the officer’s report is a quotation of the first sentence of paragraph 49 of the NPPF, not of paragraph 14. The quotation is correct. In the same paragraph of the report the officer also referred to two other passages of policy in the NPPF, namely paragraphs 50 and 55. The policies are correctly summarized. The common factor in those three passages of NPPF policy is not the “presumption in favour of sustainable development”. It is the promotion, in national planning policy, of sustainable housing development. That this is

what the officer had in mind in this part of the report is very clear from what he went on to say in paragraphs 6.11, 6.12 and 6.13, and then in paragraph 6.24.

54. In those paragraphs the officer was not purporting to apply the “presumption in favour of sustainable development” to the proposal. Nor did he advise the committee that the presumption was engaged, or that it was, in itself, a material consideration weighing in favour of the proposal. He referred, in paragraph 6.11, to “[these] criteria” – meaning the matters to which he had referred in paragraph 6.10 – as demonstrating “a clear government momentum in favour of sustainable development to create new homes and drive economic development”; in paragraphs 6.12 and 6.13 respectively, to “such emphasis” and “[such] continued emphasis from government”; and in paragraph 6.24 to “the emphasis contained within the NPPF concerning sustainable development generally ...” (my underlining). The language in those paragraphs is very distinctly not the language one would have expected the officer to have used if he thought he was applying the “presumption in favour of sustainable development”. The intervening and subsequent assessment, culminating in his final conclusion on the planning merits of the proposal in paragraph 6.42, is concerned with its credentials and benefits – and advantages when compared with the fallback – as sustainable development.
55. Paragraph 6.42 of the officer’s report does not, in my view, betray a misunderstanding of NPPF policy for the “presumption in favour of sustainable development”. The advice given to the committee in that paragraph was not inaccurate or misleading. The officer did not undertake the planning balance in terms of the policy for “decision-taking” in paragraph 14 of the NPPF. There can be no suggestion that, contrary to his earlier conclusion and advice in paragraphs 6.6 and 6.7 of his report, he was treating this as a case in which the proposal accorded with the development plan, so that it was to be approved “without delay” under the first limb of the policy for “decision-taking” in paragraph 14. Nor can it be suggested that, contrary to the whole tenor of his assessment of the proposal in paragraphs 6.1 to 6.41, this was a case in which the development plan was “absent” or “silent” or any “relevant policies” of it were “out-of-date”, so that the second limb of the policy for “decision-taking” in paragraph 14 applied.
56. This case is clearly and materially different from *Barwood v East Staffordshire Borough Council* – a case that shows what can go wrong when a decision-maker is misled as to the meaning and effect of government policy for the “presumption in favour of sustainable development”. Here the officer did not commit an error of the kind made by the inspector – and conceded by the Secretary of State – in that case: the mistake of discerning a “presumption in favour of sustainable development” outside paragraph 14 of the NPPF and treating that wider presumption as a material consideration weighing in favour of the proposal (see paragraphs 43 to 48 of my judgment in *Barwood v East Staffordshire Borough Council*). The officer did not say, as the inspector did in *Barwood v East Staffordshire Borough Council*, that “where a proposal is contrary to the development plan [the “presumption in favour of sustainable development”] is a material consideration that should be taken into account” (paragraph 12 of the decision letter in that case). Unlike the inspector in that case (in paragraphs 37 to 41 of his decision letter), he did not bring the “presumption in favour of sustainable development” into the balancing exercise as a material consideration (see paragraphs 26 and 29 of my judgment). And, in my opinion, it cannot realistically be suggested that the members would have thought they were being invited to apply that presumption in government policy, or to give it weight as a material consideration, in their assessment of the proposal.

57. The “presumption in favour of sustainable development” did not, in fact, feature as a material consideration to which the officer gave any positive weight when undertaking the planning balance. The exercise he conducted in paragraph 6.42 of his report was an entirely conventional and lawful balance of other material considerations against the identified conflict with the development plan, as section 38(6) of the Planning and Compulsory Purchase Act 2004 requires. It was, in fact, a classic example of that provision in practice. This is not to say that in his assessment of the proposal he had to refrain from considering the extent to which it complied with relevant NPPF policies – in particular, in the specific respects to which he referred, the sustainability of the proposed development in the light of NPPF policy, as well as its compliance with relevant policies of the development plan. That was a perfectly legitimate, and necessary, part of the planning assessment in this case. Had the officer left it out, he would have been in error, because he would then have been failing to have regard to material considerations. But he did not make that mistake. He assessed the proposal comprehensively on its planning merits, exercising his planning judgment on the relevant planning issues. He took into account the sustainability of the proposed development in the light of NPPF policy, but without giving it the added impetus of the “presumption in favour of sustainable development”. I cannot fault the advice he gave.
58. Finally on this issue, I do not accept the suggestion made by Ms Graham Paul in reply that the council’s response to Mr Mansell’s solicitors’ pre-application protocol letter, in its solicitors’ letter dated 22 February 2016, can be read as conceding the error for which Ms Graham Paul contended. In fact, it squarely denied that error. Having referred to the quotation of the first sentence of paragraph 49 of the NPPF in paragraph 6.10 of the officer’s report, it acknowledged that the proposal was a “departure from the development plan” and that the development plan was not “absent” or “silent” nor were relevant policies “out-of-date”. It then said that neither the officer nor the committee had treated the “presumption in favour of sustainable development” under paragraph 14 of the NPPF as “operative” in this case. It acknowledged, therefore, that neither of the limbs of the policy for “decision-taking” in paragraph 14 of the NPPF could have applied here. And it said that the officer’s report “does not begin to suggest otherwise”. I agree.
59. It follows that this ground of appeal must also fail.

Conclusion

60. For the reasons I have give, I would dismiss this appeal.

Lord Justice Hickinbottom

61. I agree with both judgments. Without diminishing my concurrence with anything my Lords have said, I would wish expressly to endorse the observations of Lindblom L.J. in paragraphs 39-40 to the effect that, in future, reference to pre-*Barwood v East Staffordshire Borough Council* authorities on the meaning and operation of the presumption in paragraph 14 of the NPPF should be avoided; and in paragraph 41, supported by the further comments of the Chancellor, on the respective roles of planning decision-makers and the courts in planning cases.

The Chancellor of the High Court

62. I too agree with Lord Justice Lindblom's judgment, but would add a few words from a more general perspective. In the course of the argument, one could have been forgiven for thinking that the contention that the presumption in favour of sustainable development in the NPPF had been misapplied in the planning officer's report turned on a minute legalistic dissection of that report. It cannot be over-emphasised that such an approach is wrong and inappropriate. As has so often been said, planning decisions are to be made by the members of the Planning Committee advised by planning officers. In making their decisions, they must exercise their own planning judgment and the courts must give them space to undertake that process.
63. Appeals should not, in future, be mounted on the basis of a legalistic analysis of the different formulations adopted in a planning officer's report. An appeal will only succeed, as Lindblom L.J. has said, if there is some distinct and material defect in the report. Such reports are not, and should not be, written for lawyers, but for councillors who are well-versed in local affairs and local factors. Planning committees approach such reports utilising that local knowledge and much common-sense. They should be allowed to make their judgments freely and fairly without undue interference by courts or judges who have picked apart the planning officer's advice on which they relied.
64. It is also appropriate to reiterate what Lindblom L.J. said at paragraph 35 of the *East Staffordshire* case to the effect that planning decision-makers have to exercise planning judgment as much when the presumption in favour of sustainable development is applicable as they do when it is not. The presumption may be rebutted when it is applicable, and planning permission may be granted where it is not. In each case, the decision-makers must use their judgment to decide where the planning balance lies based on material considerations. It is not for the court to second guess that planning judgment once it is exercised, unless as I have said it is based on a distinct and material defect in the report.
65. I agree that this appeal should be dismissed.

Appendix 9



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High Peak Borough Council

working for our community

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 1995

FULL PLANNING APPLICATION

PERMISSION

Applicant	Palmerston Properties (NW) Ltd Bank House Market Street Whaley Bridge SK23 7AA	Application no. HPK/2009/0689 Registered on 02/02/2010 Determined on 29/03/2010
Agent	53 Long Lane Chapel-En-Le-Frith SK23 0TA	

High Peak Borough Council hereby **PERMIT** this application for **FULL PLANNING PERMISSION** for

Conversion of single dwelling house to provide seven apartments and conversion of classroom block and disused garage into two detached houses at 184 Taxal Edge Macclesfield Road Taxal Edge Whaley Bridge

in accordance with the submitted application, details and accompanying plans listed below subject to the following conditions and reasons:-

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission unless some other specific period has been indicated in other conditions given.
2. No works shall take place on site until details of windows, including glazing bar details at 1:2, together with details of the door joinery, have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

.....
Andy Ellis – Development Control Manager

High Peak Borough Council, Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 77 77 Fax 01457 860290 Minicom 0845 129 48 76
E-mail planning@highpeak.gov.uk Website www.highpeak.gov.uk

3. No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such Method Statement shall include full details of the following:
 - a) Implementation, supervision and monitoring of the approved Tree Protection Scheme.
 - b) Implementation, supervision and monitoring of the approved Tree Work Specification.
 - c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
 - d) Timing and phasing of Arboricultural works in relation to the approved development.
4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority, a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced, or before the building is occupied or in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.
6. (a) No development or other operations shall commence on site until a scheme (herein after called the approved protection scheme) which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of any Tree Preservation Order currently in force, has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall commence on site in connection with the development hereby approved (including demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles,

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Andy Ellis – Development Control Manager

deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

7. The design and construction of vehicular drives and parking areas within the crown spread any trees to be retained on site and must be in line with appropriate guidelines (BS 5837: 'Trees in Relation to Construction' 2005). They must be constructed utilising minimum excavation techniques and incorporating appropriate surfaces to avoid damage to trees. No development shall take place until there has been submitted to and improved in writing by the local planning authority technical details of the proposed drives and parking areas, to include their dimension (in relation to existing ground levels) and when they are to be constructed in relation to other development operations
8. Before any other operations are commenced, the existing access to Macclesfield Road (B5470) shall be modified in accordance with the (revised) application drawings, laid out, constructed and provided with [dimensions] visibility splays in either direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level
9. Before any other operations are commenced(exclding creation of the new access, the subject of condition 8) the exisiting access track to Macclesfield Road adjacent to Brewood shall be permanantly closed with a physical barrier in a manner to be agreed in writing with the Local Planning Authority.
10. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the application drawings for the parking and manoeuvring of residents vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
11. There shall be no gates of other barriers within 10 metres of the nearside highway boundary and any gates shall open inwards only.
12. Prior to the commencement of development full details of the construction of the access track to the upper parking area, including any necessary engineering works, shall be submitted for approval to the Local Planning Authority. The works shall thereafter be implemented in accordance with the approved plans.

Reasons

1. The time limit condition is imposed in order to comply with the requirements of sections 91, 92, 93 and 56 of the Town and Country Planning Act 1990 and section 51 of the Planning and Compulsory Purchase Act 2004.

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Andy Ellis – Development Control Manager

2. In the interests of visual amenity, in accordance with Policy GD4 (and Policies BC5 and BC8 in respect of developments in conservation areas/listed buildings) of the High Peak Saved Local Plan Policies 2008.
3. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.
4. To ensure adequate and appropriate treatment to all boundaries.
5. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.
6. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.
7. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.
8. In order to provide adequate visibility from the site in the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
9. In the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
10. To ensure satisfactory service provision in the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
11. In the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
12. In the interests of visual amenity, in accordance with Policy GD5 of the High Peak Saved Local Plan Policies 2008.

Summary of reasons for granting permission

The decision to grant planning permission has been taken because the Council considers that the application has put forward a proposal which is appropriate within the Countryside and is considered acceptable in terms of Highway safety, visual appearance, residential amenity and impact on trees.

The decision to grant planning permission has also been taken having regard to all other relevant material planning considerations and to the following relevant policies and proposals in the Development Plan.

POLICIES RELEVANT TO THIS DECISION

High Peak Local Plan Saved Policies

.....

Andy Ellis – Development Control Manager

GD4 - Character Form and Design
H15 - Sub-Division of Existing dwellings
OC1 - Countryside Development
OC3 - Special Landscape Area Development
OC4 - Landscape Character and Design
OC6 - Agricultural Development
OC10 - Trees and Woodlands
TR5 - Access, parking and design

Notes to Applicant

The applicant is advised that, in carrying out the work, he should comply with the advice contained in the survey by name of consultant, and that details of methods of working etc. are adhered to. Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991, at least 6 weeks prior notification should be given to the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for Gail Mordey) before any works commence on the vehicular access within highway limits.

The application site is affected by a public Right of Way, Footpath Nos 56 and 95 on the Derbyshire Definitive Map. These routes must remain unobstructed on their legal alignment at all times and the safety of the public using them must not be prejudiced either during or after development works take place. Advice regarding the temporary or permanent diversion of such routes may be obtained from the Strategic Director of Environmental Services at County Hall, Matlock (tel: 01629 580000 and ask for the Footpaths Officer, Mr P White).

Plans

The plans to which this Notice refers are listed below:

Location Plan
Site Plan 1
Site Plan 2
10/358/01A
09/358/02A
10/358/03A
10/358/04A
10/358/05A
10/358/06A
10/358/07
09/358/08
09/358/6
09/358/09A
Tree Protection Plan South
Tree Constraints Plan North

Please Note: This decision notice does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

.....

Andy Ellis – Development Control Manager

Approval under the Building Regulations may also be required. Advice in this respect can be obtained by contacting the Councils Building Control Section on 0845 129 7777.

Any other statutory consent necessary must be obtained from the appropriate authority.

Where a vehicle is often driven across a grass verge or kerbed footway to and from premises adjoining a highway, the occupier of the premises may, be required to pay the cost of construction of a crossing, and/or may be required to comply with conditions, imposed by the Authority. You should contact the Highway Authority, Derbyshire, County Council at County Hall, Matlock, Derbyshire, tel. 01629 580000.

This consent is granted subject to conditions and it is the owner(s) and the person(s) responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond. **A fee is payable to us for the discharge of condition. Please refer to our web site : www.highpeak.gov.uk for details.** If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:

- (a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
- (b) Where a condition precedent is breached and the development is unauthorised, the only way to rectify the development is the submission of a new application.

Other conditions on this permission must also be complied with. Failure to comply with any condition may render the owner(s) and the person(s) responsible for the implementation of the development liable to enforcement action.

The permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development irrespective of the degree of variation will constitute unauthorised development and may be liable to enforcement action.
- (b) Variation to the approved plans will require the submission of a new planning application.

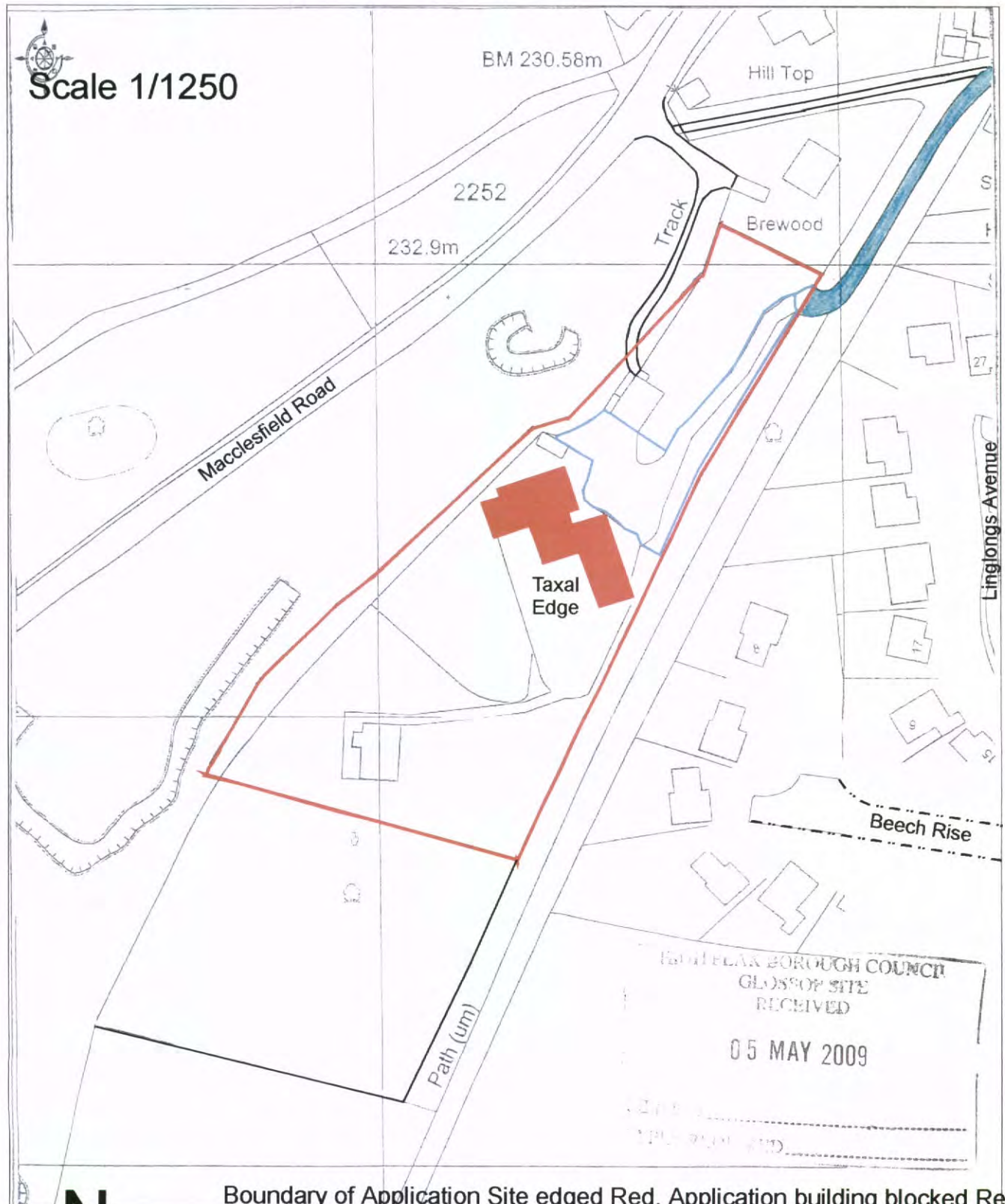
.....

Andy Ellis – Development Control Manager

Appendix 10A

Location Plan

Taxal Edge, Macclesfield Rd., Whaley Bridge



Boundary of Application Site edged Red, Application building blocked Red
Route of Vehicular Access into the Property solid Blue. Access and Parking
within the Application Site edged blue

Reproduced from Ordnance Survey mapping with the permission of
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Appendix 10B

Existing Mature Trees protected by Tree Preservation Order. Some remedial work required (see Tree Survey)

Taxal Edge, Macclesfield Road, Whaley Bridge : Site Plan 1 Residential Curtilage edged Red

HIGH PEAK DOWNGH COUNCIL
CLASS OF SITE
RECEIVED

02 FEB 2010



BM 230.58m

2252

232.9m

Macclesfield Road

Taxal Edge

Existing Retaining Wall

Existing Classroom Block to be converted to single family dwelling

Proposed stone retaining wall tapered to land form

Stone surfaced area to provide car parking and domestic space

Proposed stone retaining wall not exceeding 2m in height

Existing Mature Trees to be Protected (see Tree Survey)

Access drive width 2.5m to replace line of existing footpath tarmac surface proposed

Existing Stone Retaining Wall

Proposed Apartments seven in total

Car Parking on existing tarmac surfaced area 17 existing spaces 3 new

Gymnasium to be demolished

Existing access drive

Tarmac surfaced area

Existing Stone Wall

Proposed Dwelling

Proposed Stone Wall

Car Parking 13 existing spaces (see Site Plan 2)

Existing Mature Trees to be protected (see tree survey)

Track

Brewood

Hill Top

Scale 1:500

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Ordnance Survey Licence Number AL 50738A0001

Residential Curtilage edged Red

Application Buildings edged Green

Other land in applicants ownership edged blue

Collection Points for Refuse Wheely Bins

Access Road coloured Blue

Gymnasium to be demolished edged with broken green line

Existing and Proposed Parking Spaces marked with broken blue line (refer to Site Plan 2 for details of parking alongside main access drive)



Appendix 10C

02 FEB 2010

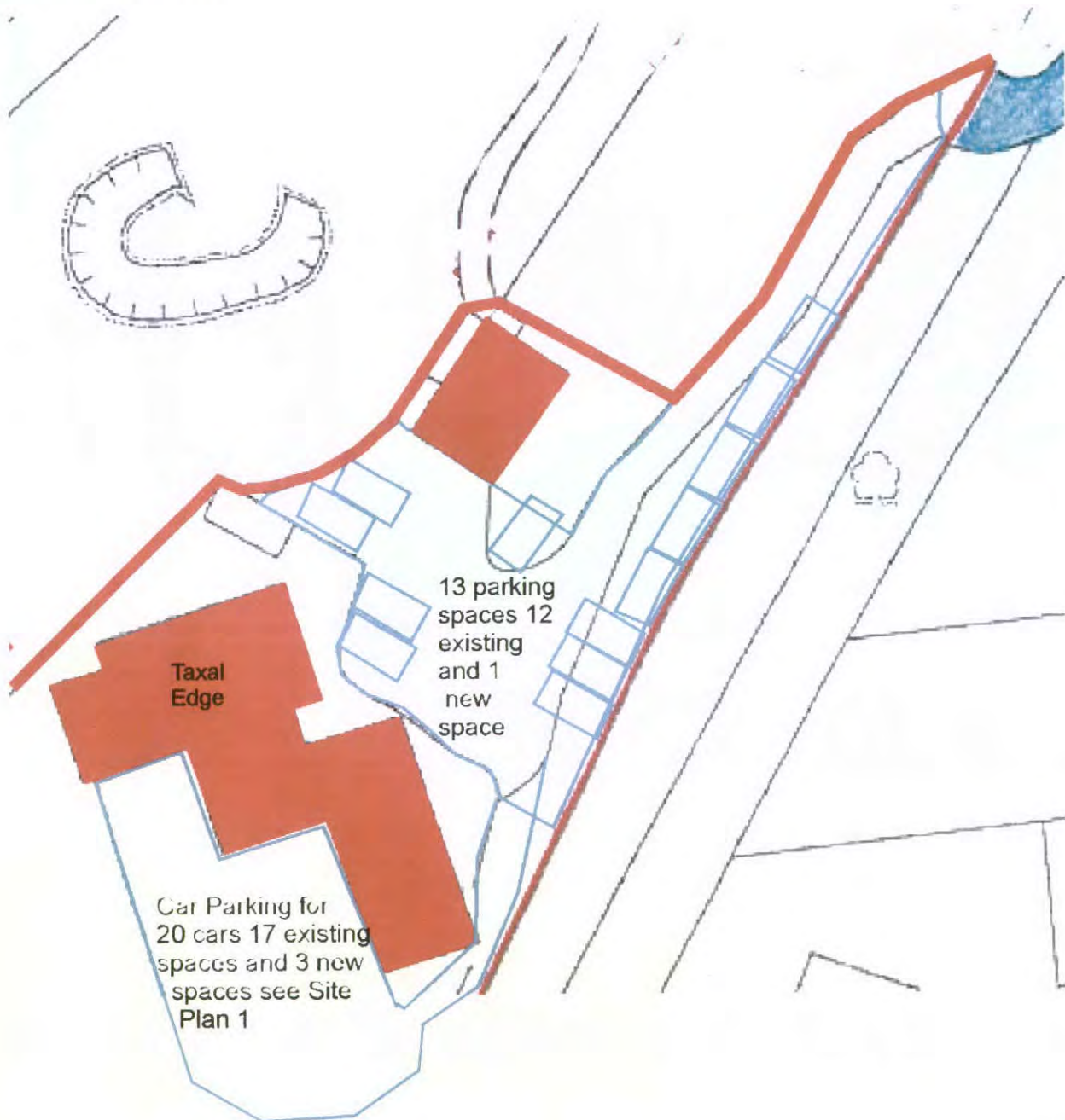
FILE REF

REPLY REQUIRED

Site Plan 2

Taxal Edge, Macclesfield Rd., Whaley Bridge

Scale 1/500

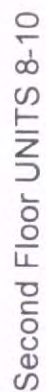


N

Boundary of Residential Curtilage edged Red, Application buildings blocked Rec
Route of Vehicular Access into the Property solid Blue. Access and Parking
within the Application Site edged blue

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Ordnance Survey Licence Number **AL 50738A0001**

Appendix 10D



Peter Dalton BA MRTPI BSc Arch. Tech.
53 Long Lane, Chapel-en-le-Frith
High Peak, Derbyshire SK23 0TA

Tel.No. 01298 813310
Fax.No. 01298 814998

Proposed Change of Use of Single Dwelling to Ten Apartments at

Taxal Edge, Whaley Bridge

Scale 1/200 Dwg. No. 09/351/01

Appendix 10E



High Peak Borough Council

working for our community

Application for Planning Permission.

Town and Country Planning Act 1990

02 FEB 2010

Publication of planning applications on council websites

Please note that with the exception of applicant contact details and Certificates of Ownership, the information provided on this application form and in supporting documents may be published on the council's website.

If you have provided any other information as part of your application which falls within the definition of personal data under the Data Protection Act which you do not wish to be published on the council's website, please contact the council's planning department.

Please complete using block capitals and black ink.

It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

1. Applicant Name and Address

Title:		First name:	
Last name:	Palmerston Properties (North West) Ltd		
Company (optional):			
Unit:		House number:	
		House suffix:	
House name:	Bank House		
Address 1:	Market Street		
Address 2:			
Address 3:			
Town:	Whaley Bridge		
County:	Derbyshire		
Country:	England		
Postcode:	SK23 7AA		

2. Agent Name and Address

Title:	Mr	First name:	Peter
Last name:	Dalton		
Company (optional):			
Unit:		House number:	53
		House suffix:	
House name:			
Address 1:	Long Lane		
Address 2:			
Address 3:			
Town:	Chapel-en-le-Frith, High Peak		
County:	Derbyshire		
Country:	England		
Postcode:	SK23 0TA		

3. Description of the Proposal

Please describe the proposed development, including any change of use:

Proposed conversion of Taxal Edge House, Whaley Bridge from single family dwelling into seven apartments. Change of use of former classroom block to single dwelling and conversion of double garage to dwelling. Total number of proposed dwelling units is nine. Conversion of Taxal Edge House and former classroom block will involve largely internal alterations. All Timber structures added to Taxal Edge House including gymnasium block to be removed and structure of original house made good and re-instated where required.

Has the building, work or change of use already started?

☐ Yes

☒ No

If Yes, please state the date when building, work or use were started (DD/MM/YYYY):

(date must be pre-application submission)

Has the building, work or change of use been completed?

☐ Yes

☒ No

If Yes, please state the date when the building, work or change of use was completed: (DD/MM/YYYY):

(date must be pre-application submission)

4. Site Address Details

Please provide the full postal address of the application site.

Unit: House number: House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Postcode (optional):

Description of location or a grid reference.
(must be completed if postcode is not known):

Easting: Northing:

Description:

Large stone built Family House built circa 1918 standing in substantial grounds formerly used as residential school for difficult children. Site includes detached classroom block and double garage

5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? ☒ Yes ☐ No

If Yes, please complete the following information about the advice you were given. (This will help the authority to deal with this application more efficiently).

Please tick if the full contact details are not known, and then complete as much as possible: ☒

Officer name:

Reference:

Date (DD/MM/YYYY):
(must be pre-application submission)

Details of pre-application advice received?

The Applicant was advised to present a planning application detailing all the proposals for the site, including the conversion of Taxal Edge House to apartments, the change of use of the former classroom block to a single house and the conversion of the garage to a single dwelling

6. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicle access proposed to or from the public highway? ☐ Yes ☒ No

Is a new or altered pedestrian access proposed to or from the public highway? ☐ Yes ☒ No

Are there any new public roads to be provided within the site? ☐ Yes ☒ No

Are there any new public rights of way to be provided within or adjacent to the site? ☐ Yes ☒ No

Do the proposals require any diversions /extinguishments and/or creation of rights of way? ☐ Yes ☒ No

If you answered Yes to any of the above questions, please show details on your plans/drawings and state the reference of the plan (s)/drawings(s)

N.B. Agreement has been reached with the Highway Authority represented by Ian Turkington in regard to minimal improvement works to existing principal access road edged blue at junction with B5470 Macclesfield Road to improve visibility to the west (uphill).

7. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste? ☒ Yes ☐ No

If Yes, please provide details:

There are existing facilities for the storage and collection of waste which would continue to operate

Have arrangements been made for the separate storage and collection of recyclable waste? ☒ Yes ☐ No

If Yes, please provide details:

Existing arrangements for the storage and collection of recyclable waste would continue to operate

8. Neighbour and Community Consultation

Have you consulted your neighbours or the local community about the proposal? ☒ Yes ☐ No

If Yes, please provide details:

The closest neighbour has been consulted and does not have any issue with the proposal.

9. Council Employee / Member

Is the applicant or agent related to any member of staff or elected member of the council? ☐ Yes ☒ No

If Yes, please provide details:

10. Materials

If applicable, please state what materials are to be used externally. Include type, colour and name for each material:

	Existing (where applicable)	Proposed	Not applicable	Don't Know	Drawing references if applicable
Walls	Natural Gritstone - Dressed and Coursed and rendered surfaces		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Roof	Blue Slate and concrete tiles		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Windows	Timber framed painted white		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Doors	Timber		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Boundary treatments (e.g. fences, walls)	Stone Walls		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Vehicle access and hard-standing	Tarmac		<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Lighting			<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Others (please specify)			<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?

☒ Yes ☐ No

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

Location Plan, Site Plan showing parking arrangements, Floor Plan layouts of proposed internal changes and elevation treatment of Taxal Edge House and the proposed conversion of the former teaching block and garage Dwg.Nos.09/358/1-10, and the design and access statement.

11. Vehicle Parking

Please provide information on the existing and proposed number of on-site parking spaces:

Type of Vehicle	Total Existing	Total proposed (including spaces retained)	Difference in spaces
Cars	30	6	36
Light goods vehicles/ public carrier vehicles			
Motorcycles			
Disability spaces			
Cycle spaces			
Other (e.g. Bus)			
Other (e.g. Bus)			

12. Foul Sewage

Please state how foul sewage is to be disposed of:

- ☒ Mains sewer ☐ Cess pit
☐ Septic tank ☐ Other
☐ Package treatment plant

Are you proposing to connect to the existing drainage system? ☒ Yes ☐ No

If Yes, please include the details of the existing system on the application drawings and state references for the plan(s)/drawing(s).

The Application building is already connected to the Mains sewers and these connections were sufficient To cater for the demands of 40 students and 15 staff. The only additional connection will be from the converted garage

13. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.)

☐ Yes ☒ No

If Yes, you will need to submit a Flood Risk Assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)? ☐ Yes ☒ No

Will the proposal increase the flood risk elsewhere? ☐ Yes ☒ No

How will surface water be disposed of?

- ☐ Sustainable drainage system ☐ Existing watercourse
☐ Soakaway ☐ Pond/lake
☒ Main sewer

14. Biodiversity and Geological Conservation

Is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

a) Protected and priority species:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

b) Designated sites, important habitats or other biodiversity features:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

c) Features of geological conservation importance:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

15. Existing Use

Please describe the current use of the site:

Private Family Dwelling

Is the site currently vacant? ☐ Yes ☒ No

If Yes, please describe the last use of the site:

When did this use end (if known)?
DD/MM/YYYY
(date where known may be approximate)

Does the proposal involve any of the following:

Land which is known to be contaminated? ☐ Yes ☒ No

Land where contamination is suspected for all or part of the site? ☐ Yes ☒ No

A proposed use that would be particularly vulnerable to the presence of contamination? ☐ Yes ☒ No

If you have answered Yes to any of the above, you will need to submit an appropriate contamination assessment.

16. Trees and Hedges

Are there trees or hedges on the proposed development site? ☒ Yes ☐ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character? ☒ Yes ☐ No

If Yes to either or both of the above, you will need to provide a full Tree Survey, with accompanying plan before your application can be determined. Your Local Planning Authority should make clear on its website what the survey should contain, in accordance with the current 'B53837: Trees in relation to construction - Recommendations'.

17. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or waste? ☐ Yes ☒ No

If Yes, please describe the nature, volume and means of disposal of trade effluents or waste

18. Residential Units (Including Conversion)

Does your proposal include the gain, loss or change of use of residential units? ☒ Yes ☐ No
If Yes, please complete details of the changes in the tables below:

Proposed Housing							Existing Housing								
Market Housing	Not known	Number of Bedrooms					Total	Market Housing	Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>		1		1		2	Houses	<input type="checkbox"/>					1	1
Flats and maisonettes	<input type="checkbox"/>		6	1			7	Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =							9	Totals (a + b + c + d + e + f + g) =							1

Social Rented	Not known	Number of Bedrooms					Total	Social Rented	Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>							Houses	<input type="checkbox"/>						
Flats and maisonettes	<input type="checkbox"/>							Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =								Totals (a + b + c + d + e + f + g) =							

Intermediate	Not known	Number of Bedrooms					Total	Intermediate	Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>							Houses	<input type="checkbox"/>						
Flats and maisonettes	<input type="checkbox"/>							Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =								Totals (a + b + c + d + e + f + g) =							

Key worker	Not known	Number of Bedrooms					Total	Key worker	Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>							Houses	<input type="checkbox"/>						
Flats and maisonettes	<input type="checkbox"/>							Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =								Totals (a + b + c + d + e + f + g) =							

Total proposed residential units (A + B + C + D) =	9	Total existing residential units (E + F + G + H) =	1
---	----------	---	----------

TOTAL NET GAIN or LOSS of RESIDENTIAL UNITS (Proposed Housing Grand Total - Existing Housing Grand Total): **8**

19. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

☐ Yes

☒ No

If you have answered Yes to the question above please add details in the following table:

Use class/type of use	Not applicable	Existing gross internal floorspace (square metres)	Gross internal floorspace to be lost by change of use or demolition (square metres)	Total gross internal floorspace proposed (including change of use)(square metres)	Net additional gross internal floorspace following development (square metres)
A1	Shops	<input type="checkbox"/>			
	Net tradable area:	<input type="checkbox"/>			
A2	Financial and professional services	<input type="checkbox"/>			
A3	Restaurants and cafes	<input type="checkbox"/>			
A4	Drinking establishments	<input type="checkbox"/>			
A5	Hot food takeaways	<input type="checkbox"/>			
B1 (a)	Office (other than A2)	<input type="checkbox"/>			
B1 (b)	Research and development	<input type="checkbox"/>			
B1 (c)	Light industrial	<input type="checkbox"/>			
B2	General industrial	<input type="checkbox"/>			
B8	Storage or distribution	<input type="checkbox"/>			
C1	Hotels and halls of residence	<input type="checkbox"/>			
C2	Residential institutions	<input type="checkbox"/>			
D1	Non-residential institutions	<input type="checkbox"/>			
D2	Assembly and leisure	<input type="checkbox"/>			
OTHER	Please specify	<input type="checkbox"/>			
		<input type="checkbox"/>			
	Total				

In addition, for hotels, residential institutions and hostels, please additionally indicate the loss or gain of rooms

Use class	Type of use	Not applicable	Existing rooms to be lost by change of use or demolition	Total rooms proposed (including changes of use)	Net additional rooms
C1	Hotels	<input type="checkbox"/>			
C2	Residential Institutions	<input type="checkbox"/>			
Other	Hostels	<input type="checkbox"/>			

20. Employment

Please complete the following information regarding employees:

	Full-time	Part-time	Total full-time equivalent
Existing employees			
Proposed employees			

21. Hours of Opening

Please state the hours of opening for each non-residential use proposed:

Use	Monday to Friday	Saturday	Sunday and Bank Holidays	Not known

22. Site Area

Please state the site area in hectares (ha)

1

23. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

Is the proposal a waste management development? ☐ Yes ☐ No

If the answer is Yes, please complete the following table:

	Not applicable	The total capacity of the void in cubic metres, including engineering surcharge and making no allowance for cover or restoration material (or tonnes if solid waste or litres if liquid waste)	Maximum annual operational throughput in tonnes (or litres if liquid waste)
Inert landfill	<input type="checkbox"/>		
Non-hazardous landfill	<input type="checkbox"/>		
Hazardous landfill	<input type="checkbox"/>		
Energy from waste incineration	<input type="checkbox"/>		
Other incineration	<input type="checkbox"/>		
Landfill gas generation plant	<input type="checkbox"/>		
Pyrolysis/gasification	<input type="checkbox"/>		
Metal recycling site	<input type="checkbox"/>		
Transfer stations	<input type="checkbox"/>		
Material recovery/recycling facilities (MRFs)	<input type="checkbox"/>		
Household civic amenity sites	<input type="checkbox"/>		
Open windrow composting	<input type="checkbox"/>		
In-vessel composting	<input type="checkbox"/>		
Anaerobic digestion	<input type="checkbox"/>		
Any combined mechanical, biological and/or thermal treatment (MBT)	<input type="checkbox"/>		
Sewage treatment works	<input type="checkbox"/>		
Other treatment	<input type="checkbox"/>		
Recycling facilities construction, demolition and excavation waste	<input type="checkbox"/>		
Storage of waste	<input type="checkbox"/>		
Other waste management	<input type="checkbox"/>		
Other developments	<input type="checkbox"/>		

Please provide the maximum annual operational throughput of the following waste streams:

Municipal	
Construction, demolition and excavation	
Commercial and industrial	
Hazardous	

If this is a landfill application you will need to provide further information before your application can be determined. Your waste planning authority should make clear what information it requires on its website.

24. Hazardous Substances

Does the proposal involve the use or storage of any of the following materials in the quantities stated below? ☐ Yes ☐ No ☐ Not applicable

If Yes, please provide the amount of each substance that is involved:

Acrylonitrile (tonnes) <input type="text"/>	Ethylene oxide (tonnes) <input type="text"/>	Phosgene (tonnes) <input type="text"/>
Ammonia (tonnes) <input type="text"/>	Hydrogen cyanide (tonnes) <input type="text"/>	Sulphur dioxide (tonnes) <input type="text"/>
Bromine (tonnes) <input type="text"/>	Liquid oxygen (tonnes) <input type="text"/>	Flour (tonnes) <input type="text"/>
Chlorine (tonnes) <input type="text"/>	Liquid petroleum gas (tonnes) <input type="text"/>	Refined white sugar (tonnes) <input type="text"/>
Other: <input type="text"/>	Other: <input type="text"/>	
Amount (tonnes): <input type="text"/>	Amount (tonnes): <input type="text"/>	

25. Certificates

One Certificate A, B, C, or D, must be completed, together with the Agricultural Holdings Certificate with this application form

CERTIFICATE OF OWNERSHIP - CERTIFICATE A

Town and Country Planning (General Development Procedure) Order 1995 Certificate under Article 7

I certify/ The applicant certifies that on the day 21 days before the date of this application, the applicant was the owner (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land or building to which the application relates.

Article 7

the applicant was the owner (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land or building to which the application relates.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

07/10/2009

CERTIFICATE OF OWNERSHIP - CERTIFICATE B

Town and Country Planning (General Development Procedure) Order 1995 Certificate under Article 7

I certify/ The applicant certifies that I have/ the applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land or building to which this application relates.

Name of Owner	Address	Date Notice Served
	Not Applicable	

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

CERTIFICATE OF OWNERSHIP - CERTIFICATE C

Town and Country Planning (General Development Procedure) Order 1995 Certificate under Article 7

I certify/ The applicant certifies that:

- Neither Certificate A or B can be issued for this application
- All reasonable steps have been taken to find out the names and addresses of the other owners (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of the land or building, or of a part of it, but I have/ the applicant has been unable to do so.

The steps taken were:

--

Name of Owner	Address	Date Notice Served
	Not Applicable	

Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):

On the following date (which must not be earlier than 21 days before the date of the application):

--

--

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

--

--

--

25. Certificates (continued)

CERTIFICATE OF OWNERSHIP - CERTIFICATE D

Town and Country Planning (General Development Procedure) Order 1995 Certificate under Article 7

I certify/ The applicant certifies that:

- Certificate A cannot be issued for this application
- All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner (owner is a person with a freehold interest or leasehold interest with at least 7 years left to run) of any part of the land to which this application relates, but I have/ the applicant has been unable to do so.

The steps taken were:

Not Applicable

Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):

On the following date (which must not be earlier than 21 days before the date of the application):

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

AGRICULTURAL HOLDINGS CERTIFICATE

Town and Country Planning (General Development Procedure) Order 1995 Certificate under Article 7

Agricultural Land Declaration - You Must Complete Either A or B

Article 7

(A) None of the land to which the application relates is, or is part of, an agricultural holding.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

05/05/2009

B) I have/ The applicant has given the requisite notice to every person other than myself/ the applicant who, on the day 21 days before the date of this application, was a tenant of an agricultural holding on all or part of the land to which this application relates, as listed below:

Name of Tenant	Address	Date Notice Served
	Not Applicable	

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

26. Planning Application Requirements - Checklist

Please read the following checklist to make sure you have sent all the information in support of your proposal. Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority has been submitted.

The original and 3 copies of a completed and dated application form:



The correct fee:



The original and 3 copies of the plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North:



The original and 3 copies of a design and access statement:



The original and 3 copies of other plans and drawings or information necessary to describe the subject of the application:



The original and 3 copies of the completed, dated Article 7 Certificate (Agricultural Holdings):



The original and 3 copies of the completed, dated Ownership Certificate (A, B, C, or D - as applicable):



27. Declaration

I/we hereby apply for planning permission/consent as described in the application form and accompanying plans/drawings and additional information.

Signature of Applicant/Agent

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

07/10/2009

(date cannot be pre-application)

28. Applicant Contact Details

Telephone numbers

Country code: National number: Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional):

Email address (optional):

29. Agent Contact Details

Telephone numbers

Country code: National number: Extension number:

Country code: Mobile number (optional):

Country code: Fax number (optional):

Email address (optional):

30. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land? ☒ Yes ☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? *(Please select only one)*

☒ Agent ☐ Applicant ☐ Other (if different from the agent/applicant's details)

If Other has been selected, please provide:

Contact name:

Telephone number:

Email address:

Appendix 11



TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPENSATION ACT 1991
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010

FULL PLANNING APPLICATION

PERMISSION

Applicant

Palmerstone Properties (NW) Ltd
Bank House Market Street
Whaley Bridge
SK23 7AA

Application no. HPK/2013/0503

Registered on 20/09/2013

Determined on 25/11/2013

Agent

P D Dalton BA Hons. Dunelm MRTPI
53 Long Lane
Chapel-En-Le-Frith
SK23 0TA

High Peak Borough Council hereby **PERMIT** this application for **FULL PLANNING PERMISSION** for

Proposed conversion of Taxal Edge 184 Macclesfield Road to form 5 apartments and to construct 2 new semi detached houses in the area of the existing gymnasium. at 184 Taxal Edge Macclesfield Road Whaley Bridge

in accordance with the submitted application, details and accompanying plans listed below subject to the following conditions and reasons:-

Conditions

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission unless some other specific period has been indicated in other conditions given.
2. The materials of external construction shall be coursed natural gritstone to the walls with natural blue slate to the roof.

.....
Michael Green
Planning Applications Manager

3. No development shall commence until samples of the materials to be used in the construction of the external surfaces of the approved development hereby permitted 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.
4. No window or door frame shall be recessed less than 100mm from the external face into which it is set.
5. Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
6. The premises, the subject of the application, shall not be occupied until space has been provided within the application site in accordance with the approved application drawings for the parking/ loading and unloading/ picking up and setting down passengers/ manoeuvring of residents/ visitors and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.
7. There shall be no gates or other barriers within 10m of the nearside highway boundary and any gates shall open inwards only.
8. Prior to the commencement of development full details of the construction of the access track to the upper parking area, including any necessary engineering works, shall be submitted for the approval to the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details and completed prior to the first occupation of the dwelling units hereby permitted.
9. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority, a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced, or before the building is occupied or in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.
10. No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written consent of the Local Planning Authority. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased with five years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the Local Planning Authority gives written consent to any variation.

.....
Michael Green
Planning Applications Manager

High Peak Borough Council, Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 7777 or 01298 28400 Fax 01457 860290 Minicom 0845 129 48 76
E-mail planning@highpeak.gov.uk Website www.highpeak.gov.uk

11. (a) No development or other operations shall commence on site until a scheme (herein after called the approved protection scheme) which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of any Tree Preservation Order currently in force, has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme.

(b) No operations shall commence on site in connection with the development hereby approved (including demolition works, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.

(c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

(d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

12. The design and construction of vehicular drives and parking areas within the crown spread any trees to be retained on site and must be in line with appropriate guidelines (BS 5837: 'Trees in Relation to Construction' 2005). They must be constructed utilising minimum excavation techniques and incorporating appropriate surfaces to avoid damage to trees. No development shall take place until there has been submitted to and improved in writing by the local planning authority technical details of the proposed drives and parking areas, to include their dimension (in relation to existing ground levels) and when they are to be constructed in relation to other development operations.

13. No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and / or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such Method Statement shall include full details of the following:

- a) Implementation, supervision and monitoring of the approved Tree Protection Scheme.
- b) Implementation, supervision and monitoring of the approved Tree Work Specification.
- c) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme
- d) Timing and phasing of Arboriculture works in relation to the approved development.

.....
Michael Green
Planning Applications Manager

High Peak Borough Council, Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 7777 or 01298 28400 Fax 01457 860290 Minicom 0845 129 48 76
E-mail planning@highpeak.gov.uk Website www.highpeak.gov.uk

14. Notwithstanding the provisions of Classes A, B, C, D or E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order) no development shall take place without the prior written approval of the local planning authority.

Reasons

1. The time limit condition is imposed in order to comply with the requirements of sections 91, 92, 93 and 56 of the Town and Country Planning Act 1990 and section 51 of the Planning and Compulsory Purchase Act 2004.
2. In the interests of visual amenity, in accordance with Policy GD4 (and Policies BC5 and BC8 in respect of developments in conservation areas/listed buildings) of the High Peak Saved Local Plan Policies 2008.
3. In the interests of visual amenity, in accordance with Policy GD4 (and Policies BC5 and BC8 in respect of developments in conservation areas/listed buildings) of the High Peak Saved Local Plan Policies 2008.
4. In the interests of visual amenity, in accordance with Policy GD4 (and Policies BC5 and BC8 in respect of developments in conservation areas/listed buildings) of the High Peak Saved Local Plan Policies 2008.
5. To ensure satisfactory service provision in the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
6. To ensure satisfactory service provision in the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
7. In the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
8. In the interests of highway safety, in accordance with Policy TR5 of the High Peak Saved Local Plan Policies 2008.
9. To ensure adequate and appropriate treatment to all boundaries.
10. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.
11. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.
12. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.

.....
Michael Green
Planning Applications Manager

13. To ensure the continued well-being of the trees in the interests of the amenity and environmental quality of the locality, in accordance with Policy GD5 and OC10 of the High Peak Saved Local Plan Policies 2008.

14. To enable the Council to exercise control over future developments at the site, in accordance with Policy GD4 and Policy GD5 of the High Peak Saved Local Plan Policies 2008.

Summary of reasons for granting permission

The Council entered into pre-application discussions with the applicant to secure a revised/improved scheme, as has been submitted and consequently approved. It is therefore considered that the proposals meet the provisions of paragraphs 186-187 of the NPPF.

The decision to grant planning permission has also been taken having regard to all other relevant material planning considerations and to the following relevant policies and proposals in the Development Plan.

POLICIES RELEVANT TO THIS DECISION

High Peak Local Plan Saved Policies

- BC1 - External Materials
- GD4 - Character Form and Design
- GD5 - Amenity
- GD6 - Landscaping
- H1 - Principles of Housing Provision
- H11 - Layout and Design of residential development
- OC1 - Countryside Development
- OC3 - Special Landscape Area Development
- OC4 - Landscape Character and Design
- OC10 - Trees and Woodlands
- TR5 - Access, parking and design

National Planning Policy Framework

Sections 6, 7 and 11

Notes to Applicant

None

Plans

The plans to which this Notice refers are listed below:

.....
Michael Green
Planning Applications Manager

High Peak Borough Council, Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 7777 or 01298 28400 Fax 01457 860290 Minicom 0845 129 48 76
E-mail planning@highpeak.gov.uk Website www.highpeak.gov.uk

Location Plan
Site Plan
13/382/01A RevA
13/382/02A
13/382/03
13/382/04
13/382/05
13/382/06
13/382/07A
13/382/09
13/382/10
Document 4

Please Note: This decision notice does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.

Approval under the Building Regulations may also be required. Advice in this respect can be obtained by contacting the Councils Building Control Section on 0845 129 7777.

Any other statutory consent necessary must be obtained from the appropriate authority.

Where a vehicle is often driven across a grass verge or kerbed footway to and from premises adjoining a highway, the occupier of the premises may, be required to pay the cost of construction of a crossing, and/or may be required to comply with conditions, imposed by the Authority. You should contact the Highway Authority, Derbyshire, County Council at County Hall, Matlock, Derbyshire, tel. 01629 580000.

This consent is granted subject to conditions and it is the owner(s) and the person(s) responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond. **A fee is payable to us for the discharge of condition.**

Please refer to our web site : www.highpeak.gov.uk for details. If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:

- (a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
- (b) Where a condition precedent is breached and the development is unauthorised, the only way to rectify the development is the submission of a new application.

Other conditions on this permission must also be complied with. Failure to comply with any condition may render the owner(s) and the person(s) responsible for the implementation of the development liable to enforcement action.

.....
Michael Green
Planning Applications Manager

High Peak Borough Council, Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 7777 or 01298 28400 Fax 01457 860290 Minicom 0845 129 48 76
E-mail planning@highpeak.gov.uk Website www.highpeak.gov.uk

The permission is granted in strict accordance with the approved plans. It should be noted however that:

- (a) Any variation from the approved plans following commencement of the development irrespective of the degree of variation will constitute unauthorised development and may be liable to enforcement action.
- (b) Variation to the approved plans will require the submission of a new planning application.

.....
Michael Green
Planning Applications Manager

High Peak Borough Council, Development Services, Municipal Buildings, Glossop, Derbyshire SK13 8AF
Tel 0845 129 7777 or 01298 28400 Fax 01457 860290 Minicom 0845 129 48 76
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Appendix 12

DELEGATED DECISION REPORT

HPK/2013/0503 184 TAXAL EDGE
20/09/2013 MACCLESFIELD ROAD
WHALEY BRIDGE

PROPOSED CONVERSION OF
TAXAL EDGE 184
MACCLESFIELD ROAD TO
FORM 5 APARTMENTS AND
TO CONSTRUCT 2 NEW SEMI
DETACHED HOUSES IN THE
AREA OF THE EXISTING
GYMNASIUM.

(FULL - MINOR)

MAIN ISSUES

- Countryside
- Amenity
- Design

RELEVANT POLICIES

Adopted High Peak Local Plan (Saved Policies) 2008

BC1 - External Materials
GD4 - Character Form and Design
GD5 - Amenity
GD6 - Landscaping
H1 - Principles of Housing Provision
H11 - Layout and Design of residential development
OC1 - Countryside Development
OC3 - Special Landscape Area Development
OC4 - Landscape Character and Design
OC10 - Trees and Woodlands
TR5 - Access, parking and design

National Planning Policy Framework

Section 6 Delivering a wide choice of high quality homes.
Section 7 Requiring good design.
Section 11 Conserving and enhancing the natural environment.

Supplementary Planning Guidance:

- Residential Design
- Landscape Character
- Sustainable Development

RELEVANT PREVIOUS APPLICATIONS

HPK/2008/0069 Change of use to a single family dwelling. Approved.

HPK/2009/0689	Conversion of single dwellinghouse to provide seven apartments and conversion of classroom block and disused garage into two detached houses. Approved 2010.
PAD/2012/0039	Demolition of later extension to Taxal Edge and replacement with two new semi-detached dwellings. January 2013.

CONSULTATIONS

Publicity

Site Notice expiry date: 23rd October 2013
 Neighbour consultation period ends: 15th October 2013
 Press Advert: N/A

County Highways

The highway Authority commented on a previous planning application HPK/2009/0689 for 7 apartments and 2 dwellings and raised no concerns subject to conditions. Whilst the current proposal may generate additional traffic trips compared with the previously approved application, any increase would be insignificant and, as a result, there are no grounds for a highway objection.

In the previous consultation with the highway authority conditions were recommended with advisory notes and it is requested that these same conditions and notes are included in any consent for this current application in the best interests of highway safety.

Police Crime Prevention

No comments

Environmental Health

The end use is sensitive, there it is recommended that conditions relating to contamination investigations and remediation are attached to any consent granted as well as conditions restricting hours of operation during construction and dust suppression.

Arboriculture Officer

No objections subject to conditions previously recommended in relation to trees.

Neighbours

No comments

Whaley Bridge Town Council

No comments received

OFFICER COMMENTS

Principle of Use

Taxal Edge is a substantial late Victorian Institutional building set in generous landscaped grounds within an area of countryside just outside of the built-up area of Whaley Bridge. It also lies within a special landscape area. The property has formerly been in the ownership of Stockport Metropolitan Council when it was used as a children's home. It has had a number of additions to it over the years and more recently has been in use as a single dwelling. Consent was given in 2010 to convert the main building into 7 self contained flats. Within the curtilage of the property there is a modern classroom building constructed in the 1960's and a traditionally constructed stone garage. Both of these buildings were granted consent to convert into single dwellings in 2010 and work has commenced on one of these.

The site is well treed and covered by a Derbyshire County Council Tree Preservation Order in addition there is car parking on the site for approximately 30 vehicles.

Whilst Policy OC1 of the High Peak Saved Local Plan Policies seeks to restrict development in the countryside to that which is required as an integral part of the rural economy and can only be carried out in the countryside the National Planning Policy Framework seeks to deliver a wide choice of high quality homes with a presumption in favour of sustainable development.

Whilst the site does lie in an area of countryside as defined by the High Peak Saved Local Plan Policies 2008 it lies outside of the green belt and adjoins the built up area of Whaley Bridge. It is on a bus route and close to the local primary school and sports facilities. The site is a brownfield site and already has permission for the main house to be converted into 7 apartments and the conversion of two curtilage buildings into a further two dwellings. There is a substantial hard surfaced car park within the centre of the site.

The proposal is to demolish the later additions to the original dwelling on the site, including the gymnasium. The original dwelling would then be converted into 5 apartments and 2 semi-detached properties would be constructed on the site where the previous gymnasium exists. The total number of dwellings thus being 7 plus the two already permitted in the converted buildings on the site.

Whilst housing in the open countryside would normally be under strict control, this site abuts the built-up area of the Whaley Bridge and is previously developed. The Council does not have a 5year supply of housing land available and thus Policy H1 and OC1 in respect of its constraints on the location of housing is considered to be out of date and does not conform with the NPPF. In addition the site has an extant consent for a total of 9 residential units on it. Whilst the existing consents relate to the conversion of existing buildings on the site, the main dwelling, which has consent to be converted into 7 units, has been extended in an unsympathetic and incongruous manner over the years. The demolition of these elements and reconstruction of a pair of traditional semi detached properties on this part of the site will improve the

form of the development and the visual qualities of the site without causing undue harm to the landscape characteristics of the locality.

Design/Site Layout

Given the sites location in the countryside which is also a special landscape area it is important that the overall design, layout and appearance of the proposed development is in character with the area and original dwelling. The two new dwellings proposed would be constructed in coursed natural gritstone with blue slate roofs. They have been designed in the simple vernacular, with sash proportioned windows constructed with stone heads and cills. The dwellings will not be readily visible to public views but are still considered to be of a scale, design and appearance with reflect the local character of this area. Each property would have an enclosed forecourt garden and a private rear garden enclosed by a dry stone retaining wall. The properties would not suffer from nor cause any material loss of privacy or overlooking with occupants of the proposed apartments, and would have a reasonable standard of general amenity. The development thus accords with Policies GD4, GD5 and H11 of the High Peak Saved Local Plan Policies, 2008.

Highway Issues

The Highway Authority have not raised any highway safety objections in relation to this application. Space is been provided within the curtilage of the site for the parking and manoeuvring of 12 cars immediately adjacent to the proposed apartments and 2 new dwellings. In addition a further 12 spaces could be accommodated on land adjoining the access drive if necessary which is more than adequate for the number and size of units proposed. Space has been retained within the site for the turning of service vehicles and the site is remote enough from the highway to ensure that parking and manoeuvring in and around the site will not impinge on the public highway and thus does not raise any highway safety concerns.

Trees/ landscape Issues

Derbyshire County Council Tree Preservation Order 175 covers the site. The application has been accompanied by an arboriculture method statement, tree protection scheme and construction specification. The conversion into apartments and the new dwellings proposed do not impact on any of the protected trees which surround the site.

Conclusion

The development proposed on this brownfield site is considered to be a sustainable form of development which accords with the provisions of the NPPF and Saved Local Plan Policies outlined above. It will not cause ant material harm to any other material planning considerations.

RECOMMENDATION : APPROVE

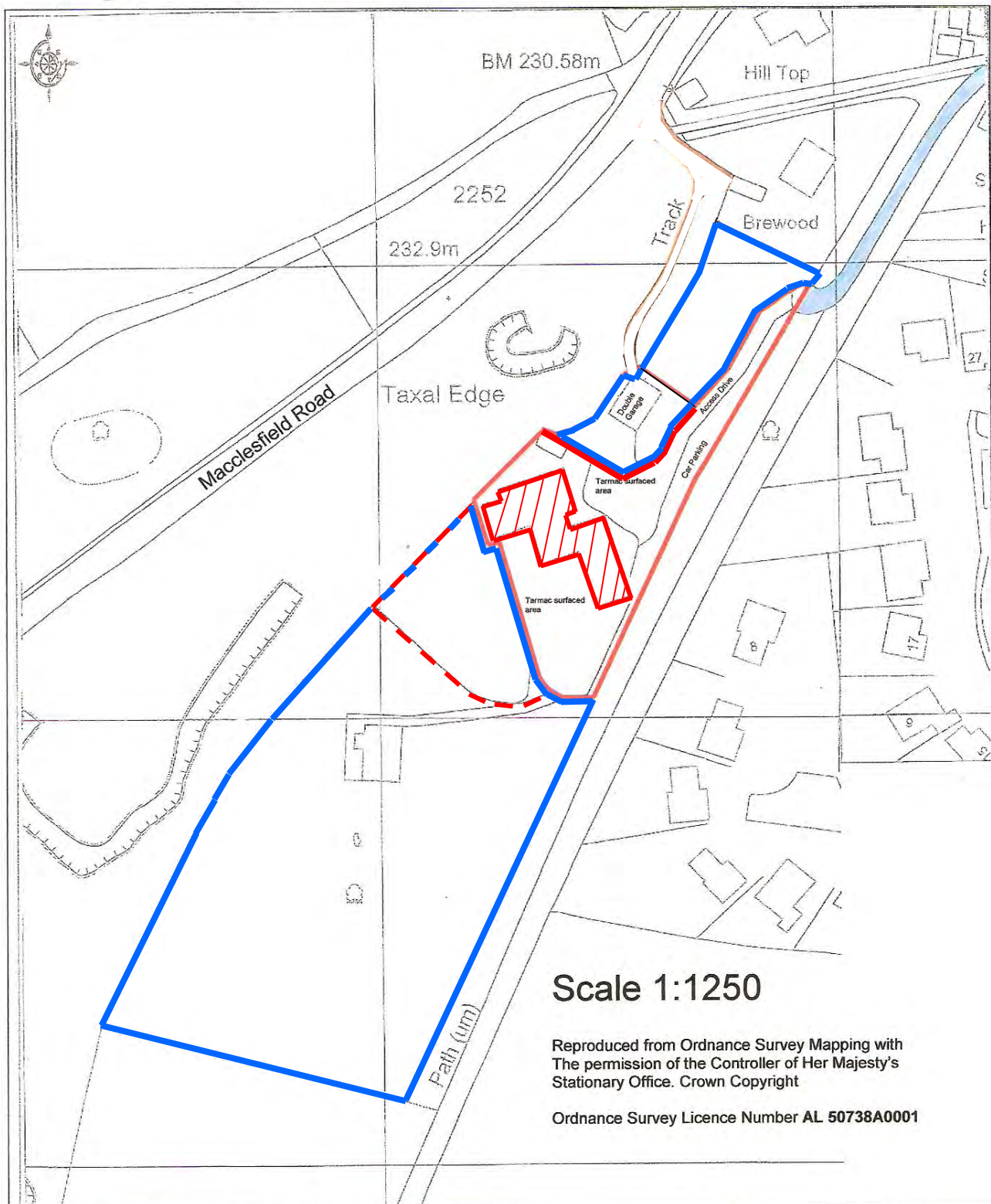
CASE OFFICER Elizabeth Pleasant DATE 25/11/2013

PLANNING APPLICATIONS MANAGER



Appendix 13A

Taxal Edge, Macclesfield Road, Whaley Bridge : Location Plan



Application Site hatched Red

Access Road coloured Blue

Domestic curtilage of proposed dwellings edged Red

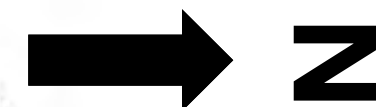
Other land owned by Applicant-
edged Blue

Additional amenity area available to proposed residential properties edged with broken red line

Appendix 13B

Existing Mature Trees protected by Tree Preservation Order. Some remedial work required (see Tree Survey)

Taxal Edge, Macclesfield Road, Whaley Bridge : Site Plan Residential Curtilage edged Red



Existing Retaining Wall

Former Classroom Block converted to single family dwelling

Proposed stone retaining wall tapered to land form

Stone surfaced area to provide car parking and domestic space

Proposed stone retaining wall not exceeding 2m in height

Existing Mature Trees to be Protected (see Tree Survey)

Access drive width 2.5m to replace line of existing footpath tarmac surface proposed

Existing Stone Retaining Wall

Proposed Apartments

Car Parking on existing tarmac surfaced area 17 existing spaces

Gymnasium to be demolished

Existing access drive

Tarmac surfaced area

Proposed Dwelling

Proposed Stone Wall

Access Drive tarmac surface Car Parking 13 existing spaces

Existing Mature Trees to be protected (see tree survey)

Track

Brewwood

Hill Top

Scale 1:500 printed at A3

Reproduced from Ordnance Survey Mapping with The permission of the Controller of Her Majesty's Stationary Office. Crown Copyright

Ordnance Survey Licence Number AL 50738A0001

Residential Curtilage edged Red
Application Buildings edged Green
Existing and Proposed Parking Spaces marked with broken blue line

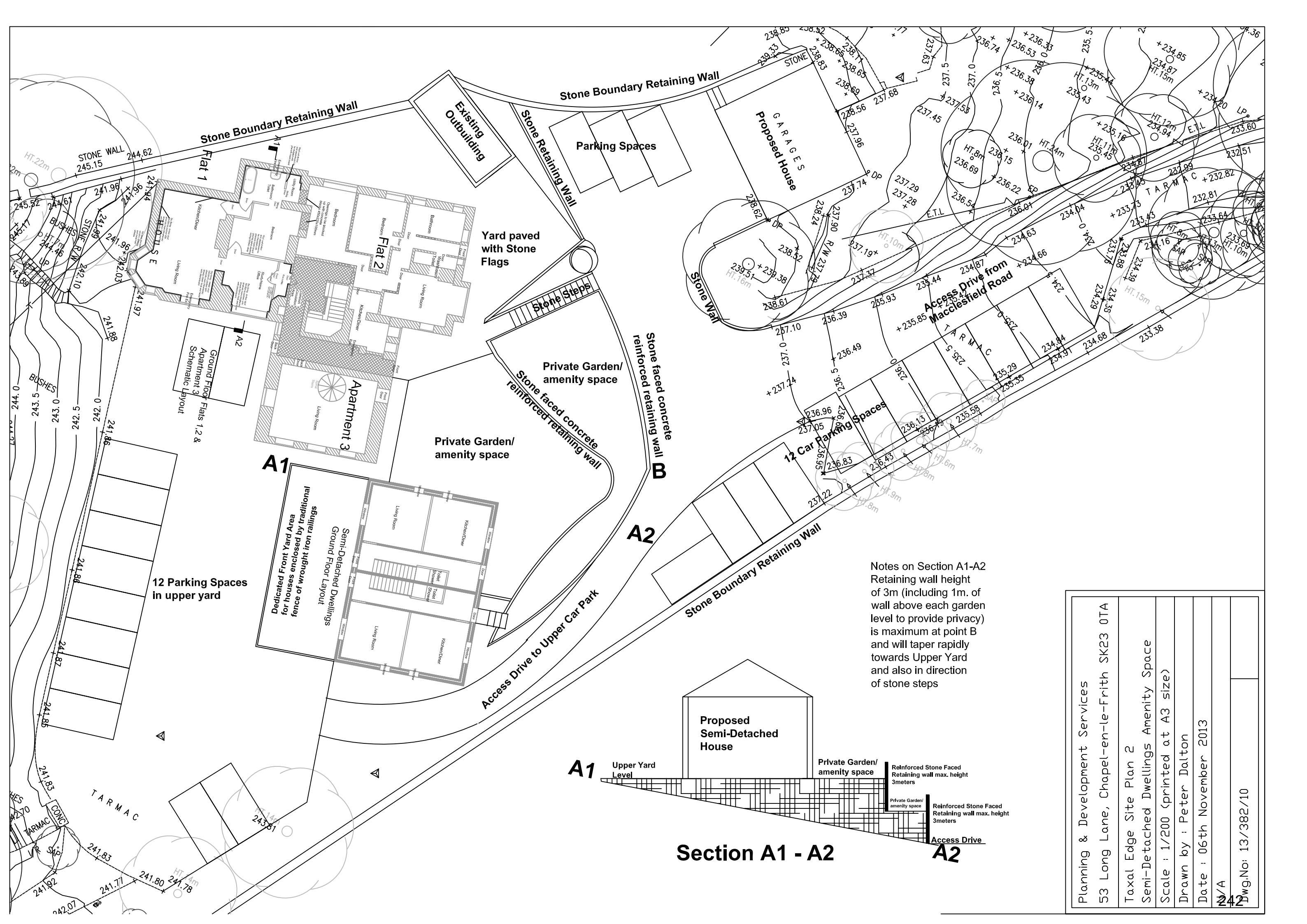
Access Road coloured Blue

Gymnasium to be demolished edged with broken green line



Collection Points for Refuse Wheely Bins

Appendix 13C



Notes on Section A1-A2
Retaining wall height
of 3m (including 1m. of
wall above each garden
level to provide privacy)
is maximum at point B
and will taper rapidly
towards Upper Yard
and also in direction
of stone steps

Section A1 - A2

Planning & Development Services	
53 Long Lane, Chapel-en-le-Frith SK23 0TA	
Taxal Edge Site Plan 2	
Semi-Detached Dwellings Amenity Space	
Scale : 1/200 (printed at A3 size)	
Drawn by : Peter Dalton	
Date : 06th November 2013	
Dwg.No: 13/382/10	

Appendix 13D



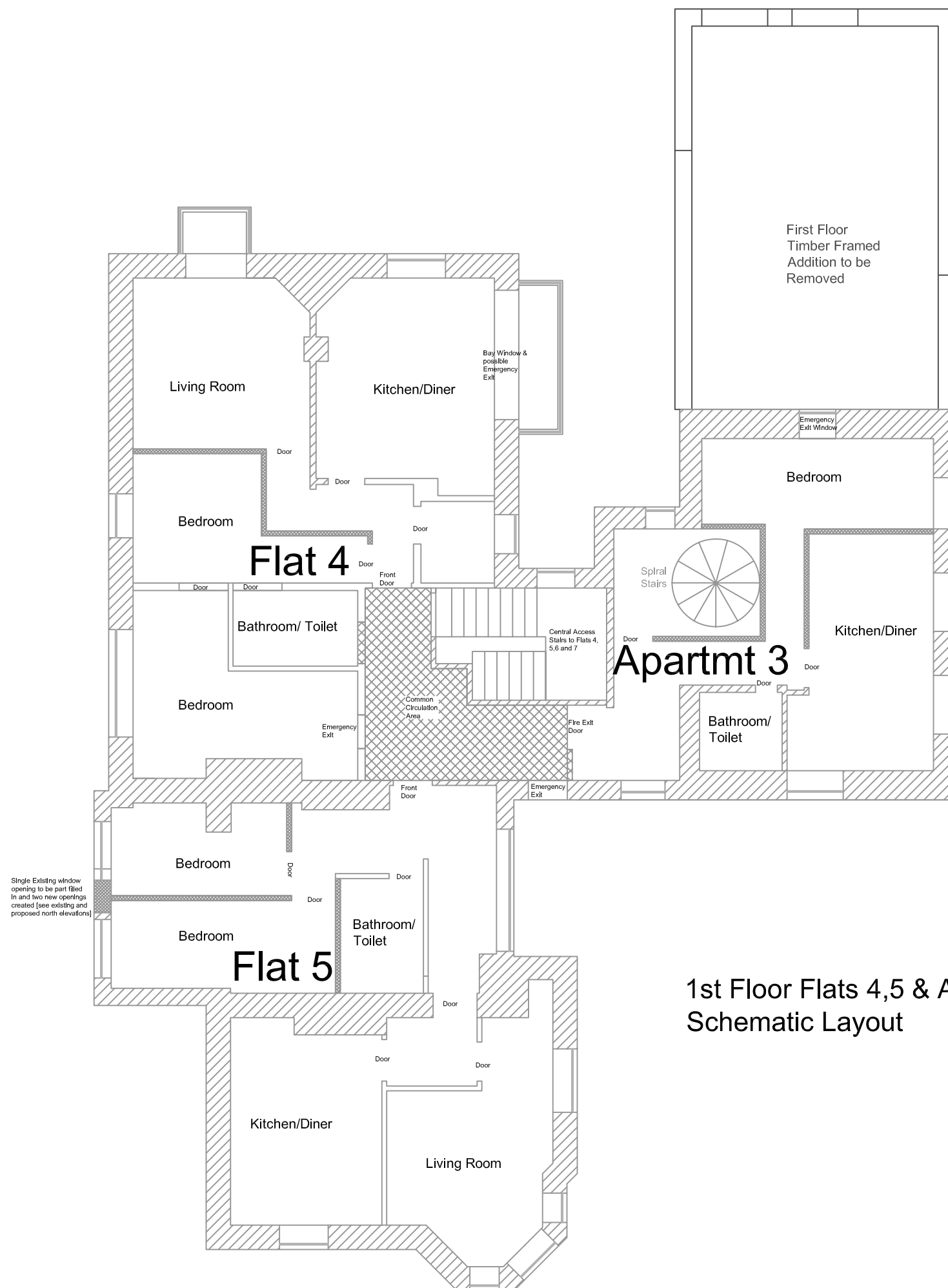
Proposed West Elevation



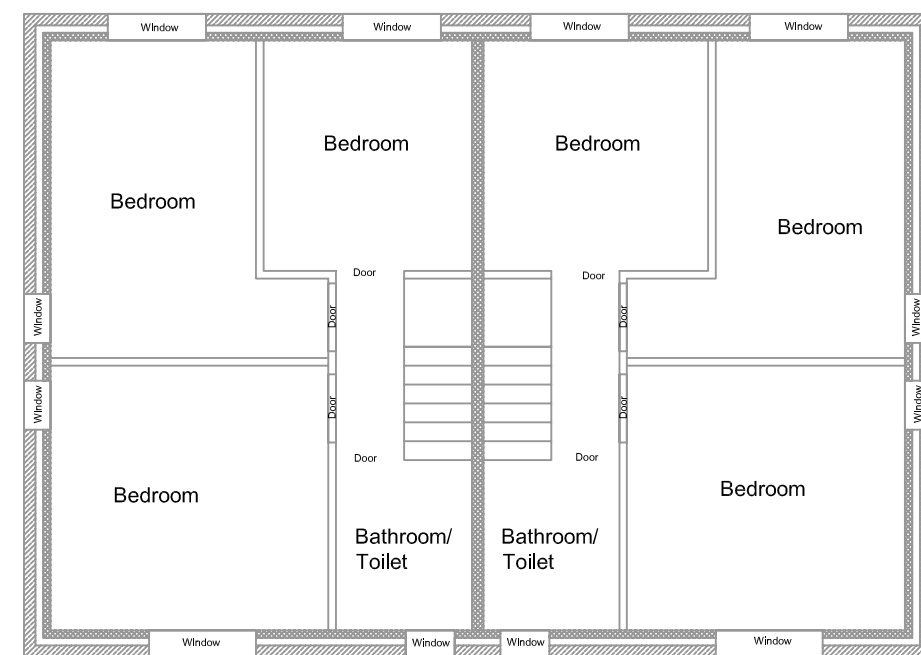
Proposed East Elevation

Planning & Development Services	
53 Long Lane, Chapel-en-le-Frith SK23 0TA	
Taxal Edge Main House Alts. & Semi Det.	
Proposed Elevations	
Scale : 1/100	
Drawn by : Peter Dalton	
Date : 26th July 2013	
2/A	
Dwg.No: 13/382/07	Revision A

Appendix 13E



1st Floor Flats 4,5 & Apartment 3 Schematic Layout



Semi-Detached dwellings1st Floor Layout

KEY

Buildings Elements coloured Red to be removed

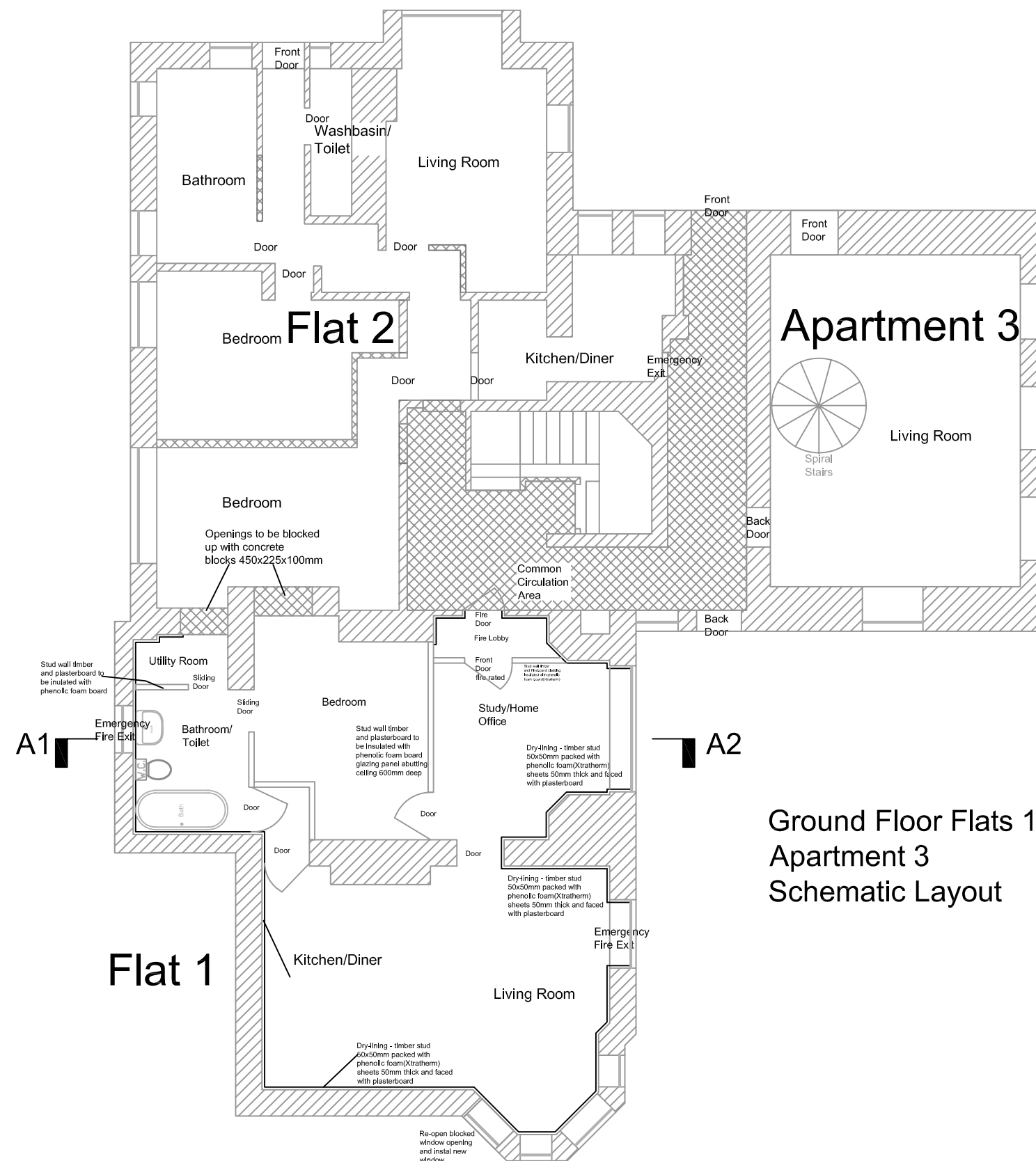
Common Access areas and stairs coloured Green

Existing Buildings coloured Orange/Brown

New Walls coloured Purple

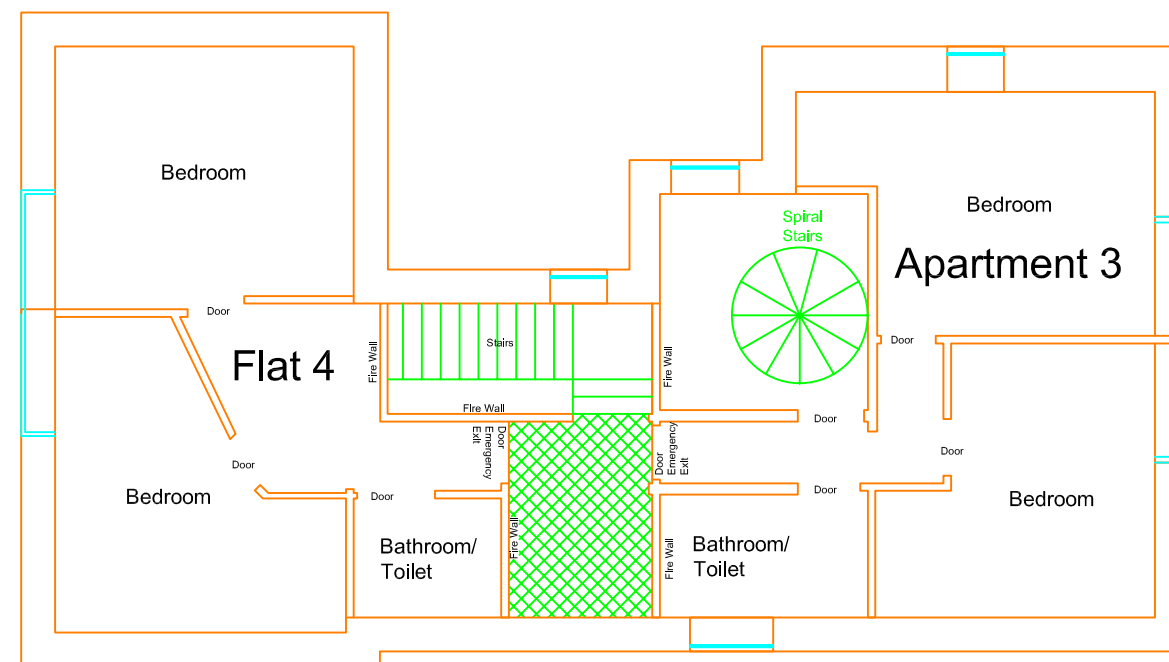
Planning & Development Services	
53 Long Lane, Chapel-en-le-Frith	
Taxal Edge, Main House Alt. & Semi Det. First Floor Proposed and Existing	
Scale : 1/100	
Drawn by : Peter Dalton	
Date : 7th August 2013	
N/A	
Dwg.No: 13/382/02	Revision A 246

Appendix 13F



Planning & Development Services	
53 Long Lane, Chapel-en-le-Frith	
Taxal Edge, Main House Alt. & Semi Det. Ground Floor Proposed	
Scale : 1/100	
Drawn by : Peter Dalton	
Date : 7th August 2013	
N/A	
Dwg.No: 13/382/01A	Revision A 248

Appendix 13G



2nd Floor to Flat 4 & 3rd floor to Apartment 3 Schematic Layout

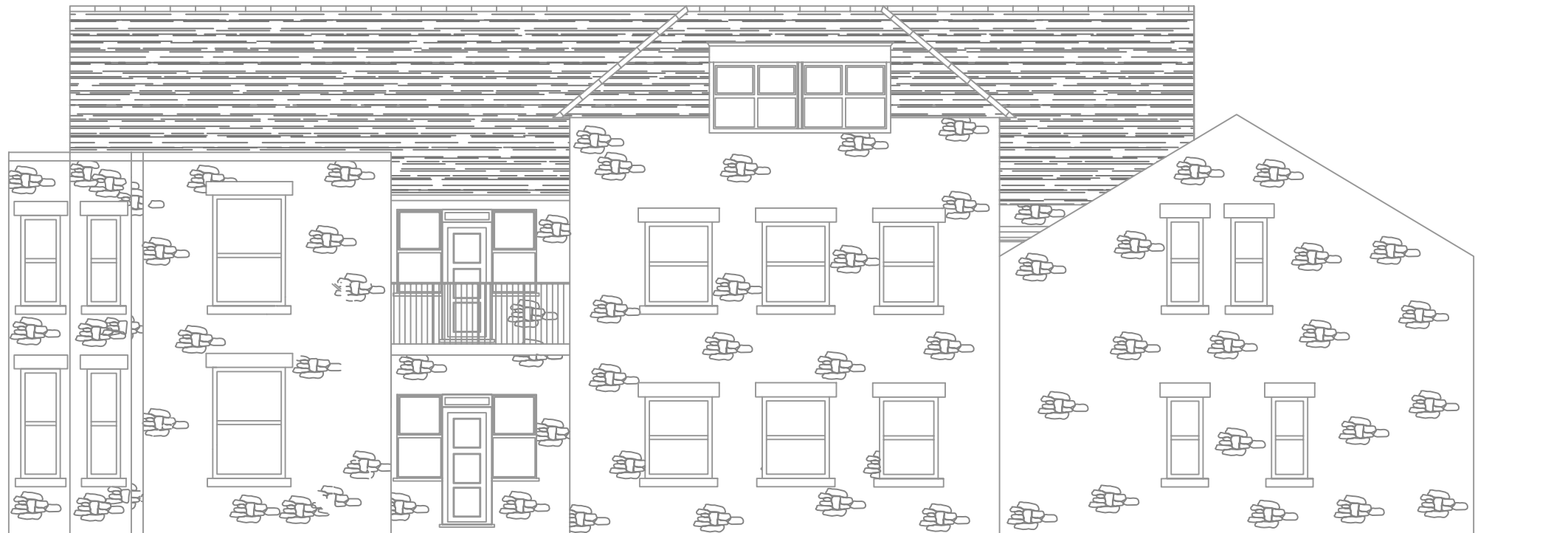
Planning & Development Services 53 Long Lane, Chapel-en-le-Frith	
Taxal Edge, Main House Alt. & Semi Det. Second Floor Proposed	
Scale : 1/100	
Drawn by : Peter Dalton	
Date : 7th August 2013	
N/A	
Dwg.No: 13/382/03	250

Appendix 13H



Window(s) to be reinstated

Proposed North Elevation



Proposed South Elevation including
Semi-detached dwelling

Planning & Development Services	
53 Long Lane, Chapel-en-le-Frith SK23 0TA	
Taxal Edge, Main House Alts.& semi-det.	
Proposed North and South Elevations	
Scale : 1/100	
Drawn by : Peter Dalton	
Date : 7th August 2013	
2/A	
Dwg.No: 13/382/06	

Appendix 13I



High Peak Borough Council

working for our community

Application for Planning Permission. Town and Country Planning Act 1990

You can complete and submit this form electronically via the Planning Portal by visiting www.planningportal.gov.uk/apply

Publication of applications on planning authority websites

Please note that the information provided on this application form and in supporting documents may be published on the Authority's website. If you require any further clarification, please contact the Authority's planning department.

Please complete using block capitals and black ink.

It is important that you read the accompanying guidance notes as incorrect completion will delay the processing of your application.

1. Applicant Name and Address

Title:		First name:	
Last name:			
Company (optional):	Palmerstone Properties (NW) Ltd		
Unit:		House number:	
		House suffix:	
House name:			
Address 1:	Bank House		
Address 2:	Market Street		
Address 3:			
Town:	Whaley Bridge, High Peak		
County:	Derbyshire		
Country:	England		
Postcode:	SK23 7AA		

2. Agent Name and Address

Title:	Mr	First name:	Peter
Last name:	Dalton		
Company (optional):			
Unit:		House number:	53
		House suffix:	
House name:			
Address 1:	Long Lane		
Address 2:			
Address 3:			
Town:	Chapel-en-le-Frith, High Peak		
County:	Derbyshire		
Country:	England		
Postcode:	SK23 0TA		

3. Description of the Proposal

Please describe the proposed development, including any change of use:

Proposed Conversion of Taxal Edge, 184 Macclesfield Road, Whaley Bridge to form five apartments and to construct 2 new semi-detached houses on the area of the existing gymnasium and changing rooms which are to be demolished. The proposal includes the demolition of all the recent additions to the main house and the removal of the water tank protruding from the main roof.

Has the building, work or change of use already started?

☒ Yes

☐ No

If Yes, please state the date when building, work or use were started (DD/MM/YYYY):

June 2012

(date must be pre-application submission)

Has the building, work or change of use been completed?

☐ Yes

☒ No

If Yes, please state the date when the building, work or change of use was completed: (DD/MM/YYYY):

(date must be pre-application submission)

SDate: 2013-04-30 #5 \$Revision: 5504 \$

4. Site Address Details

Please provide the full postal address of the application site.

Unit: House number: House suffix:

House name:

Address 1:

Address 2:

Address 3:

Town:

County:

Postcode (optional):

Description of location or a grid reference.
(must be completed if postcode is not known):

Easting: Northing:

Description:

5. Pre-application Advice

Has assistance or prior advice been sought from the local authority about this application? ☒ Yes ☐ No

If Yes, please complete the following information about the advice you were given. (This will help the authority to deal with this application more efficiently).

Please tick if the full contact details are not known, and then complete as much as possible: ☐

Officer name:

Reference:

Date (DD/MM/YYYY):

(must be pre-application submission)

Details of pre-application advice received?

6. Pedestrian and Vehicle Access, Roads and Rights of Way

Is a new or altered vehicle access proposed to or from the public highway?

☐ Yes

☒ No

Is a new or altered pedestrian access proposed to or from the public highway?

☐ Yes

☒ No

Are there any new public roads to be provided within the site?

☐ Yes

☒ No

Are there any new public rights of way to be provided within or adjacent to the site?

☐ Yes

☒ No

Do the proposals require any diversions /extinguishments and/or creation of rights of way?

☐ Yes

☒ No

If you answered Yes to any of the above questions, please show details on your plans/drawings and state the reference of the plan (s)/drawings(s)

7. Waste Storage and Collection

Do the plans incorporate areas to store and aid the collection of waste?

☐ Yes

☒ No

If Yes, please provide details:

Have arrangements been made for the separate storage and collection of recyclable waste?

☐ Yes

☒ No

If Yes, please provide details:

8. Authority Employee / Member

With respect to the Authority, I am: (a) a member of staff
(b) an elected member
(c) related to a member of staff
(d) related to an elected member

Do any of these statements apply to you?

☐ Yes

☒ No

If Yes, please provide details of the name, relationship and role

9. Materials

If applicable, please state what materials are to be used externally. Include type, colour and name for each material:

	Existing (where applicable)	Proposed	Not applicable	Don't Know
Walls	Coursed Natural Gritstone	Coursed Natural Gritstone	<input type="checkbox"/>	<input type="checkbox"/>
Roof	Natural Blue Slate	Natural Blue Slate	<input type="checkbox"/>	<input type="checkbox"/>
Windows	White UPVC and some white wood	Timber painted white	<input type="checkbox"/>	<input type="checkbox"/>
Doors	Timber painted green, black and white	Timber painted white or black	<input type="checkbox"/>	<input type="checkbox"/>
Boundary treatments (e.g. fences, walls)	Dry stone Walls where applicable	Dry stone Walls where applicable	<input type="checkbox"/>	<input type="checkbox"/>
Vehicle access and hard-standing	Basalt chippings and Gritstone sets	Basalt chippings and Gritstone sets	<input type="checkbox"/>	<input type="checkbox"/>
Lighting			<input type="checkbox"/>	<input type="checkbox"/>
Others (please specify)			<input type="checkbox"/>	<input type="checkbox"/>

Are you supplying additional information on submitted plan(s)/drawing(s)/design and access statement?

☒ Yes ☐ No

If Yes, please state references for the plan(s)/drawing(s)/design and access statement:

Drawing Numbers 13/382/01&01A, 13/382/02&02A, 13/382/03, 13/382/04, 05, 06 & 07 – Floor Plans existing and proposed, Elevations existing and proposed, Location Plan and Site Plan, Design and Access Statement

10. Vehicle Parking

Please provide information on the existing and proposed number of on-site parking spaces:

Type of Vehicle	Total Existing	Total proposed (including spaces retained)	Difference in spaces
Cars	20	20	0
Light goods vehicles/ public carrier vehicles			
Motorcycles			
Disability spaces			
Cycle spaces			
Other (e.g. Bus)			
Other (e.g. Bus)			

\$Date: 2013-04-30 \$Revision: 5504 \$

11. Foul Sewage

Please state how foul sewage is to be disposed of:

- ☒ Mains sewer ☐ Cess pit
☐ Septic tank ☐ Other
☐ Package treatment plant

Are you proposing to connect to the existing drainage system? ☐ Yes ☐ No

If Yes, please include the details of the existing system on the application drawings and state references for the plan(s)/drawing(s):

12. Assessment of Flood Risk

Is the site within an area at risk of flooding? (Refer to the Environment Agency's Flood Map showing flood zones 2 and 3 and consult Environment Agency standing advice and your local planning authority requirements for information as necessary.)

☐ Yes ☒ No

If Yes, you will need to submit a Flood Risk Assessment to consider the risk to the proposed site.

Is your proposal within 20 metres of a watercourse (e.g. river, stream or beck)? ☐ Yes ☒ No

Will the proposal increase the flood risk elsewhere? ☐ Yes ☒ No

How will surface water be disposed of?

- ☐ Sustainable drainage system ☐ Existing watercourse
☐ Soakaway ☐ Pond/lake
☒ Main sewer

13. Biodiversity and Geological Conservation

To assist in answering the following questions refer to the guidance notes for further information on when there is a reasonable likelihood that any important biodiversity or geological conservation features may be present or nearby and whether they are likely to be affected by your proposals.

Having referred to the guidance notes, is there a reasonable likelihood of the following being affected adversely or conserved and enhanced within the application site, or on land adjacent to or near the application site?

a) Protected and priority species:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

b) Designated sites, important habitats or other biodiversity features:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

c) Features of geological conservation importance:

- ☐ Yes, on the development site
☐ Yes, on land adjacent to or near the proposed development
☒ No

14. Existing Use

Please describe the current use of the site:

Residential

Is the site currently vacant? ☐ Yes ☒ No

If Yes, please describe the last use of the site:

When did this use end (if known)?

DD/MM/YYYY

(date where known may be approximate)

Does the proposal involve any of the following?
If yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated? ☐ Yes ☒ No

Land where contamination is suspected for all or part of the site? ☐ Yes ☒ No

A proposed use that would be particularly vulnerable to the presence of contamination? ☐ Yes ☒ No

15. Trees and Hedges

Are there trees or hedges on the proposed development site? ☒ Yes ☐ No

And/or: Are there trees or hedges on land adjacent to the proposed development site that could influence the development or might be important as part of the local landscape character? ☒ Yes ☐ No

If Yes to either or both of the above, you may need to provide a full Tree Survey, at the discretion of your local planning authority. If a Tree Survey is required, this and the accompanying plan should be submitted alongside your application. Your local planning authority should make clear on its website what the survey should contain, in accordance with the current 'BS5837: Trees in relation to design, demolition and construction - Recommendations'.

16. Trade Effluent

Does the proposal involve the need to dispose of trade effluents or waste? ☐ Yes ☒ No

If Yes, please describe the nature, volume and means of disposal of trade effluents or waste

SDater: 2013-04-30 #5 \$Revision: 5504 \$

17. Residential Units (Including Conversion)

Does your proposal include the gain, loss or change of use of residential units?
If Yes, please complete details of the changes in the tables below:

☒ Yes

☐ No

Proposed Housing							Existing Housing								
Market Housing	Not known	Number of Bedrooms					Total	Market Housing	Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>		1	2	1		4	Houses	<input type="checkbox"/>	1	1				2
Flats and maisonettes	<input type="checkbox"/>	1	2		2			Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =							9	Totals (a + b + c + d + e + f + g) =							2

Social Rented							Social Rented								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>							Houses	<input type="checkbox"/>						
Flats and maisonettes	<input type="checkbox"/>							Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =								Totals (a + b + c + d + e + f + g) =							

Intermediate							Intermediate								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>							Houses	<input type="checkbox"/>						
Flats and maisonettes	<input type="checkbox"/>							Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =								Totals (a + b + c + d + e + f + g) =							

Key worker							Key worker								
	Not known	Number of Bedrooms					Total		Not known	Number of Bedrooms					Total
		1	2	3	4+	Unknown				1	2	3	4+	Unknown	
Houses	<input type="checkbox"/>							Houses	<input type="checkbox"/>						
Flats and maisonettes	<input type="checkbox"/>							Flats and maisonettes	<input type="checkbox"/>						
Live-work units	<input type="checkbox"/>							Live-work units	<input type="checkbox"/>						
Cluster flats	<input type="checkbox"/>							Cluster flats	<input type="checkbox"/>						
Sheltered housing	<input type="checkbox"/>							Sheltered housing	<input type="checkbox"/>						
Bedsit/studios	<input type="checkbox"/>							Bedsit/studios	<input type="checkbox"/>						
Unknown type	<input type="checkbox"/>							Unknown type	<input type="checkbox"/>						
Totals (a + b + c + d + e + f + g) =								Totals (a + b + c + d + e + f + g) =							

Total proposed residential units (A + B + C + D) =	9
Total existing residential units (E + F + G + H) =	2

TOTAL NET GAIN or LOSS of RESIDENTIAL UNITS (Proposed Housing Grand Total - Existing Housing Grand Total): 7

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18. All Types of Development: Non-residential Floorspace

Does your proposal involve the loss, gain or change of use of non-residential floorspace?

☐ Yes☒ No

If you have answered Yes to the question above please add details in the following table:

Use class/type of use	Not applicable	Existing gross internal floorspace (square metres)	Gross internal floorspace to be lost by change of use or demolition (square metres)	Total gross internal floorspace proposed (including change of use)(square metres)	Net additional gross internal floorspace following development (square metres)
A1	<input type="checkbox"/>				
Shops	<input type="checkbox"/>				
Net tradable area:	<input type="checkbox"/>				
A2	<input type="checkbox"/>				
Financial and professional services	<input type="checkbox"/>				
A3	<input type="checkbox"/>				
Restaurants and cafes	<input type="checkbox"/>				
A4	<input type="checkbox"/>				
Drinking establishments	<input type="checkbox"/>				
A5	<input type="checkbox"/>				
Hot food takeaways	<input type="checkbox"/>				
B1 (a)	<input type="checkbox"/>				
Office (other than A2)	<input type="checkbox"/>				
B1 (b)	<input type="checkbox"/>				
Research and development	<input type="checkbox"/>				
B1 (c)	<input type="checkbox"/>				
Light Industrial	<input type="checkbox"/>				
B2	<input type="checkbox"/>				
General Industrial	<input type="checkbox"/>				
B8	<input type="checkbox"/>				
Storage or distribution	<input type="checkbox"/>				
C1	<input type="checkbox"/>				
Hotels and halls of residence	<input type="checkbox"/>				
C2	<input type="checkbox"/>				
Residential institutions	<input type="checkbox"/>				
D1	<input type="checkbox"/>				
Non-residential institutions	<input type="checkbox"/>				
D2	<input type="checkbox"/>				
Assembly and leisure	<input type="checkbox"/>				
OTHER	<input type="checkbox"/>				
Please Specify	<input type="checkbox"/>				
Total					

Not Applicable

In addition, for hotels, residential institutions and hostels, please additionally indicate the loss or gain of rooms

Use class	Type of use	Not applicable	Existing rooms to be lost by change of use or demolition	Total rooms proposed (including changes of use)	Net additional rooms
C1	Hotels	<input type="checkbox"/>			
C2	Residential Institutions	<input type="checkbox"/>			
OTHER		<input type="checkbox"/>			
Please Specify		<input type="checkbox"/>			

19. Employment

Please complete the following information regarding employees:

	Full-time	Part-time	Total full-time equivalent
Existing employees			
Proposed employees			

Not Applicable

20. Hours of Opening

Please state the hours of opening for each non-residential use proposed:

Use	Monday to Friday	Saturday	Sunday and Bank Holidays	Not known

Not Applicable

21. Site Area

Please state the site area in hectares (ha)

Less than 1 ha

22. Industrial or Commercial Processes and Machinery

Please describe the activities and processes which would be carried out on the site and the end products including plant, ventilation or air conditioning. Please include the type of machinery which may be installed on site:

Not Applicable

Is the proposal a waste management development? ☐ Yes ☒ No

If the answer is Yes, please complete the following table:

	Not applicable	The total capacity of the void in cubic metres, including engineering surcharge and making no allowance for cover or restoration material (or tonnes if solid waste or litres if liquid waste)	Maximum annual operational throughput in tonnes (or litres if liquid waste)
Inert landfill	<input type="checkbox"/>		
Non-hazardous landfill	<input type="checkbox"/>		
Hazardous landfill	<input type="checkbox"/>		
Energy from waste incineration	<input type="checkbox"/>		
Other incineration	<input type="checkbox"/>		
Landfill gas generation plant	<input type="checkbox"/>		
Pyrolysis/gasification	<input type="checkbox"/>		
Metal recycling site	<input type="checkbox"/>	Not Applicable	
Transfer stations	<input type="checkbox"/>		
Material recovery/recycling facilities (MRFs)	<input type="checkbox"/>		
Household civic amenity sites	<input type="checkbox"/>		
Open windrow composting	<input type="checkbox"/>		
In-vessel composting	<input type="checkbox"/>		
Anaerobic digestion	<input type="checkbox"/>		
Any combined mechanical, biological and/or thermal treatment (MBT)	<input type="checkbox"/>		
Sewage treatment works	<input type="checkbox"/>		
Other treatment	<input type="checkbox"/>		
Recycling facilities construction, demolition and excavation waste	<input type="checkbox"/>		
Storage of waste	<input type="checkbox"/>		
Other waste management	<input type="checkbox"/>		
Other developments	<input type="checkbox"/>		

Please provide the maximum annual operational throughput of the following waste streams:

Municipal	
Construction, demolition and excavation	
Commercial and industrial	
Hazardous	

If this is a landfill application you will need to provide further information before your application can be determined. Your waste planning authority should make clear what information it requires on its website.

23. Hazardous Substances

Does the proposal involve the use or storage of any of the following materials in the quantities stated below? ☐ Yes ☐ No ☒ Not applicable

If Yes, please provide the amount of each substance that is involved:

Acrylonitrile (tonnes)	<input type="text"/>	Ethylene oxide (tonnes)	<input type="text"/>	Phosgene (tonnes)	<input type="text"/>
Ammonia (tonnes)	<input type="text"/>	Hydrogen cyanide (tonnes)	<input type="text"/>	Sulphur dioxide (tonnes)	<input type="text"/>
Bromine (tonnes)	<input type="text"/>	Liquid oxygen (tonnes)	<input type="text"/>	Flour (tonnes)	<input type="text"/>
Chlorine (tonnes)	<input type="text"/>	Liquid petroleum gas (tonnes)	<input type="text"/>	Refined white sugar (tonnes)	<input type="text"/>

Other:

Other:

Amount (tonnes):

Amount (tonnes):

24. Ownership Certificates and Agricultural Land Declaration

One Certificate A, B, C, or D, must be completed with this application form

CERTIFICATE OF OWNERSHIP - CERTIFICATE A

Town and Country Planning (Development Management Procedure) (England) Order 2010 Certificate under Article 12

I certify/The applicant certifies that on the day 21 days before the date of this application nobody except myself/ the applicant was the owner* of any part of the land or building to which the application relates, and that none of the land to which the application relates is, or is part of, an agricultural holding**

NOTE: You should sign Certificate B, C or D, as appropriate, if you are the sole owner of the land or building to which the application relates but the land is, or is part of, an agricultural holding.

*"owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

**"agricultural holding" has the meaning given by reference to the definition in the Town and Country Planning Act 1990.

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):



CERTIFICATE OF OWNERSHIP - CERTIFICATE B

Town and Country Planning (Development Management Procedure) (England) Order 2010 Certificate under Article 12

I certify/ The applicant certifies that I have/the applicant has given the requisite notice to everyone else (as listed below) who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land or building to which this application relates.

*"owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

**"agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

Name of Owner / Agricultural Tenant	Address	Date Notice Served
	Not Applicable	

Signed - Applicant:

Or signed - Agent:

Date (DD/MM/YYYY):

24. Ownership Certificates and Agricultural Land Declaration (continued)**CERTIFICATE OF OWNERSHIP - CERTIFICATE C****Town and Country Planning (Development Management Procedure) (England) Order 2010 Certificate under Article 12**

I certify/ The applicant certifies that:

- Neither Certificate A or B can be issued for this application
- All reasonable steps have been taken to find out the names and addresses of the other owners* and/or agricultural tenants** of the land or building, or of a part of it, but I have/ the applicant has been unable to do so.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

The steps taken were:

--

Name of Owner / Agricultural Tenant	Address	Date Notice Served
	Not Applicable	

Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):

--

On the following date (which must not be earlier than 21 days before the date of the application):

--

Signed - Applicant:

--

Or signed - Agent:

--

Date (DD/MM/YYYY):

--

CERTIFICATE OF OWNERSHIP - CERTIFICATE D**Town and Country Planning (Development Management Procedure) (England) Order 2010 Certificate under Article 12**

I certify/ The applicant certifies that:

- Certificate A cannot be issued for this application
- All reasonable steps have been taken to find out the names and addresses of everyone else who, on the day 21 days before the date of this application, was the owner* and/or agricultural tenant** of any part of the land to which this application relates, but I have/ the applicant has been unable to do so.

* "owner" is a person with a freehold interest or leasehold interest with at least 7 years left to run.

** "agricultural tenant" has the meaning given in section 65(8) of the Town and Country Planning Act 1990

The steps taken were:

Not Applicable

Notice of the application has been published in the following newspaper (circulating in the area where the land is situated):

--

On the following date (which must not be earlier than 21 days before the date of the application):

--

Signed - Applicant:

--

Or signed - Agent:

--

Date (DD/MM/YYYY):

--

25. Planning Application Requirements - Checklist

Please read the following checklist to make sure you have sent all the information in support of your proposal. Failure to submit all information required will result in your application being deemed invalid. It will not be considered valid until all information required by the Local Planning Authority has been submitted.

The original and 3 copies of a completed and dated application form:



The correct fee:



The original and 3 copies of the plan which identifies the land to which the application relates drawn to an identified scale and showing the direction of North:



The original and 3 copies of a design and access statement, if required (see help text and guidance notes for details):



The original and 3 copies of other plans and drawings or information necessary to describe the subject of the application:



The original and 3 copies of the completed, dated Ownership Certificate (A, B, C or D - as applicable) and Article 12 Certificate (Agricultural Holdings):



26. Declaration

I/we hereby apply for planning permission/consent as described in this form and the accompanying plans/drawings and additional information. I/we confirm that, to the best of my/our knowledge, any facts stated are true and accurate and any opinions given are the genuine opinions of the person(s) giving them.

Signed - Applicant:

Or signed -

/YYYY):

2013

(date cannot be pre-application)

27. Applicant Contact Details

Telephone numbers

Country code:

National number:

Extension number:

Country code:

Mobile number (optional):

Country code:

Fax number (optional):

Email address (optional):

28. Agent Contact Details

Telephone numbers

Country code:

National number:

Extension number:

Country code:

01298 813310

Country code:

Fax number (optional):

Email address (optional):

peter.dalton1@hotmail.co.uk

29. Site Visit

Can the site be seen from a public road, public footpath, bridleway or other public land?

☒ Yes☐ No

If the planning authority needs to make an appointment to carry out a site visit, whom should they contact? (Please select only one)

☐ Agent☒ Applicant☐ Other (if different from the agent/applicant's details)

If Other has been selected, please provide:

Contact name:

Telephone number:

Email address:

Appendix 14



Taxal Edge, Macclesfield Road, Whaley Bridge,
Derbyshire, SK23 7DR

Daylight & Sunlight Assessment

Prepared for:	Emery Planning
Date:	28/05/2021
Status:	Draft

Document History and Status

Document Control			
Prepared By		Scott Jones	
Revision Details			
Version	Date	Pages affected	Comments
Draft	28/05/2021	-	-

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I Introduction

I.1 Introduction

- I.1.1 Daylight and Sunlight Solutions Ltd. was instructed to prepare a Daylight and Sunlight Assessment for the proposed development at land near Taxal Edge, Macclesfield Road, Whaley Bridge, SK23 7DR.
- I.1.2 The purpose of this report is to assess the daylight and sunlight levels of the proposed 7 dwellings, in accordance with guidance set out in *BRE Report 209, Site Layout Planning for Daylight and Sunlight: A guide to good practice, Second Edition, 2011* (BR 209), and *BS 8206-2 Code of Practice for Daylighting*.

I.2 Development Description

- I.2.1 The proposed development comprises of 3 detached and 4 semi-detached new dwellings.

I.3 3D Model

- I.3.1 A 3D model has been developed of the proposed development and surrounding trees. This is shown in Figure 1.
- I.3.2 Trees have been modelled from data provided in the Tree Survey by Thompson Tree Services (November 2020). Only trees referenced in this report have been modelled. The difficulty of modelling the effects of trees on daylight is referenced in BR 209 paragraph H 1.2 which states that:

It is generally more difficult to calculate the effects of trees on daylight because of their irregular shapes and because some light will generally penetrate through the tree crown.

- I.3.3 Appendix H of BR 209 provides formulas for the calculation of average daylight factors (ADF) and annual probable sunlight hours (APSH) that take account of the estimated proportion of light that passes through the tree crowns. Having considered the variety of tree species surrounding the development site it has been estimated that an average of 20% of light will pass through the tree crowns in the summer and that an average of 60% of light will pass through the tree crowns in the winter.
- I.3.4 A calculation of the sunlight hours that the gardens receive is provided in Chapter 2.3. For this calculation trees have been modelled both as opaque objects and not included. Modelling trees as opaque objects will underestimate the amount of direct sunlight the gardens would receive and not modelling the trees will overestimate sunlight levels. BR 209 paragraph H 4.1 recommends that trees are not modelled for the following reason:

In assessing the impact of buildings on sunlight in gardens, trees and shrubs are not normally included in the calculation unless a dense belt or group of evergreens is specifically planned as a windbreak or for privacy purposes. This is partly because the dappled shade of a tree is more pleasant than deep shadow of a building.

- I.3.5 MBS Software, daylight for SketchUp, a program developed to calculate daylight and sunlight levels in accordance with guidance provided in BR 209, has been used.
- I.3.6 For the purposes of the Average Daylight Factor (ADF) calculations, the area-weighted average reflectance of the room surfaces has been calculated on the assumption that the rooms have a white ceiling (0.85), light (pale cream) coloured walls (0.81) and light coloured carpet/light wood flooring (0.4). The maintenance factor has been calculated as 0.92 for the windows. The diffuse visible transmittance of the glazing has been assumed to be 0.68 and the effective net area glazing has been measured from drawings.

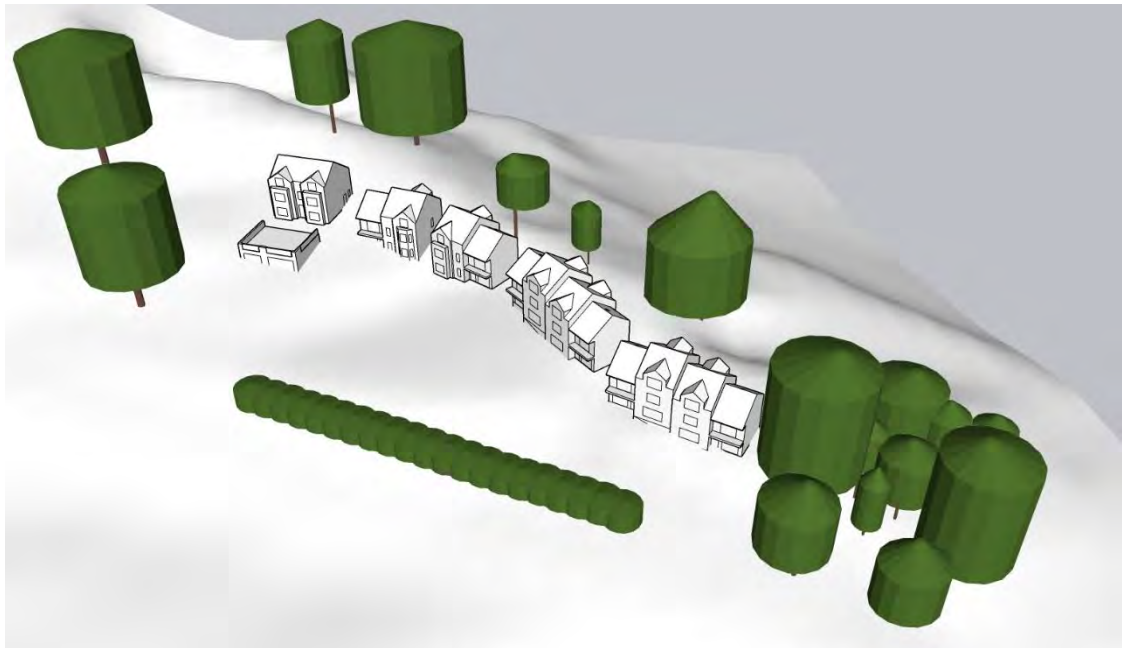


Figure I – Proposed development area and surrounding trees

2 Assessment

2.1 Daylight – Average Daylight Factors (ADFs) – New Development

2.1.1 BR 209 Paragraph 2.1.8 states:

Daylight provision in new rooms may be checked using the average daylight factor (ADF). The ADF is a measure of the overall amount of daylight in a space. BS 8206-2 Code of practice for daylighting...gives minimum values of ADF of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms.

2.1.2 BS 8206-2 Paragraph 5.6 further explains that:

Where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%.

2.1.1 Appendix A provides a record of the assessment of the ADFs of the proposed 7 dwellings. Figures highlighted in green achieve the numerical target values stated in BR 209. Figures highlighted in orange fall below the numerical target values stated in BR 209.

2.1.2 Summer and winter ADF calculations have been carried out to understand the daylight levels throughout the year. During the summer when most trees are in leaf a 20% transparency has been applied to the trees to calculate the summer ADF (circled in black). Most trees during winter are not in leaf and therefore a transparency of 60% has been applied to calculate the winter ADF (circled in blue).

2.1.3 Figures have been given to one decimal place in order to demonstrate whether the values stated in BR 209 have been met. However, when reviewing the ADFs, it is recommended that Peter Tregenza and Michael Wilson's observation below is taken into consideration.¹

We can say that there is a significant difference, in both the subjective character and the physical environment between a room with an average daylight factor of 2% and one with an average daylight factor of 5%. There may be a noticeable difference between rooms with daylight factors of 2% and 3%. However, not only would a difference between 2% and 2.1% be almost certainly subjectively unnoticeable, but such a distinction would be completely unjustified scientifically. The level of uncertainty in the parameters and the simplifying assumptions in the models preclude such pretensions to precision. Average daylight factor calculations have little absolute meaning beyond the decimal place.

2.2.6 All habitable rooms of the proposed 7 dwellings, exceed the average daylight factors (ADF) recommended in BR 209 and BS 8206-2, in both summer and winter months, complying with BR 209 guidance.

¹ Tregenza, P. and Wilson, M. (2011) *Daylighting: Architecture and Lighting Design*. Abingdon: Routledge.

2.2 Sunlight – Annual Probable Sunlight Hours (APSH) – New Development

2.2.1 BR 209 paragraph 3.1.15 states:

In general a dwelling, or non-domestic building, which has a particular requirement for sunlight will appear reasonably sunlit provided:

- At least one main window wall faces within 90° of due south and;
- The centre of at least one window to a main living room can receive 25% of annual probable sunlight hours, including at least 5% of annual probable sunlight hours in the winter months between 21 September and 21 March.

2.2.2 Table 1 provides a numerical record of the assessment of Annual Probable Sunlight Hours (APSH) and the APSH in the winter months (WPSH) to the windows of the main living areas of the proposed 7 dwellings. The closest Weather data has been used from BREEAM Location Manchester.

2.2.3 For this assessment trees have been given a transparency of 20% in the summer months and 60% in the winter months.

Table 1: APSH and WPSH

Plot	Room	APSH	WPSH	Complies with BR 209 recommendations
1	Kitchen / Dining / Family	65.6%	22.2%	✓
	Living	65.6%	22.2%	✓
2	Kitchen / Dining / Family	66.4%	22.2%	✓
	Living	66.4%	22.2%	✓
3	Kitchen / Dining / Family	78.0%	25.0%	✓
	Living	78.6%	25.6%	✓
4	Kitchen / Dining / Family	76.2%	24.2%	✓
	Living	78.2%	25.2%	✓
5	Kitchen / Dining / Family	67.6%	20.6%	✓
	Living	70.0%	22.0%	✓
6	Kitchen / Dining / Family	62.4%	19.4%	✓
	Living	65.8%	20.8%	✓
7	Kitchen / Dining	36.0%	7.0%	✓
	Family	74.6%	24.0%	✓
	Living	59.6%	18.4%	✓

- 2.2.4 All 7 dwellings of the proposed development have access to a window within 90° due south and exceeds 25% Annual Probable Sunlight Hours (APSH) and 5% Winter Probable Sunlight Hours (WPSH), complying with BR 209 guidance.

2.3 Sunlight - Gardens – New Development

2.3.1 BR 209 paragraph 3.3.17 states:

It is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least two hours of sunlight on 21 March.

2.3.2 For this calculation, trees have been modelled both as opaque objects and not included. Modelling trees as opaque objects will underestimate the amount of direct sunlight the gardens would receive and not modelling the trees will overestimate sunlight levels. BR 209 paragraph H 4.1 recommends that trees are not modelled for the following reason:

In assessing the impact of buildings on sunlight in gardens, trees and shrubs are not normally included in the calculation unless a dense belt or group of evergreens is specifically planned as a windbreak or for privacy purposes. This is partly because the dappled shade of a tree is more pleasant than deep shadow of a building.

2.3.3 Figures 2 and 3 show the areas of amenity that would most likely enjoy direct sunlight on March 21 (equinox). Areas in yellow meet BR 209 guidance; darker colours fall outside BR 209 guidance and are more shaded throughout the day. Figure 2 represents a worst-case scenario with opaque trees modelled (left); Figure 3 shows trees removed from the assessment (right).

2.3.4 Table 2 provides a numerical record of the amenity spaces to the proposed 7 dwellings with trees included as opaque objects, and trees removed from the assessment as per BR 209 guidance.

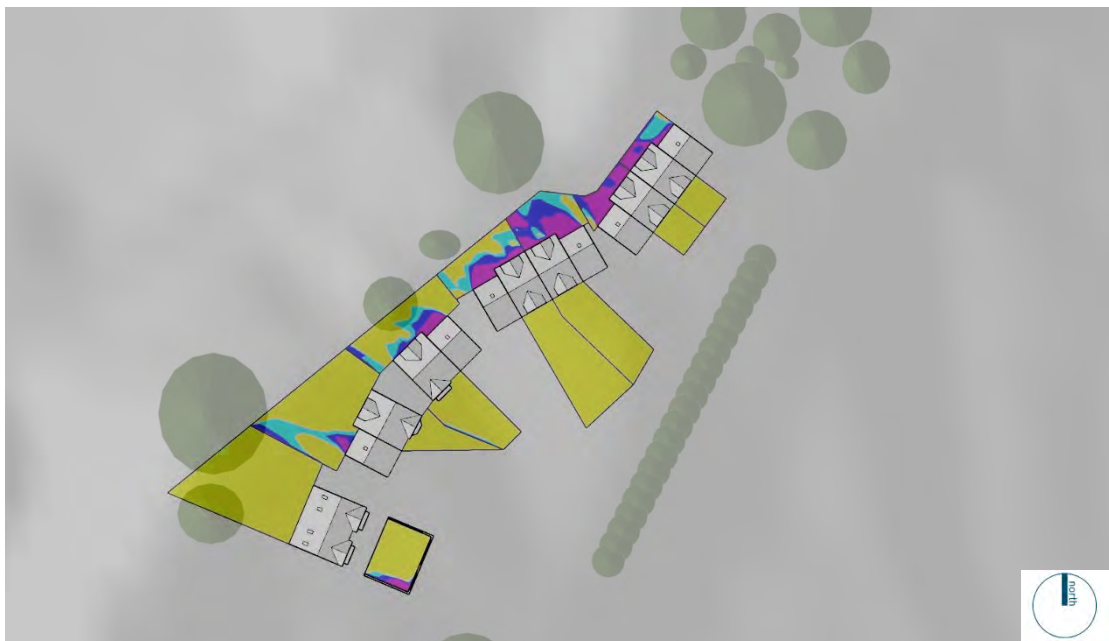


Figure 2: Amenity assessment with opaque trees modelled

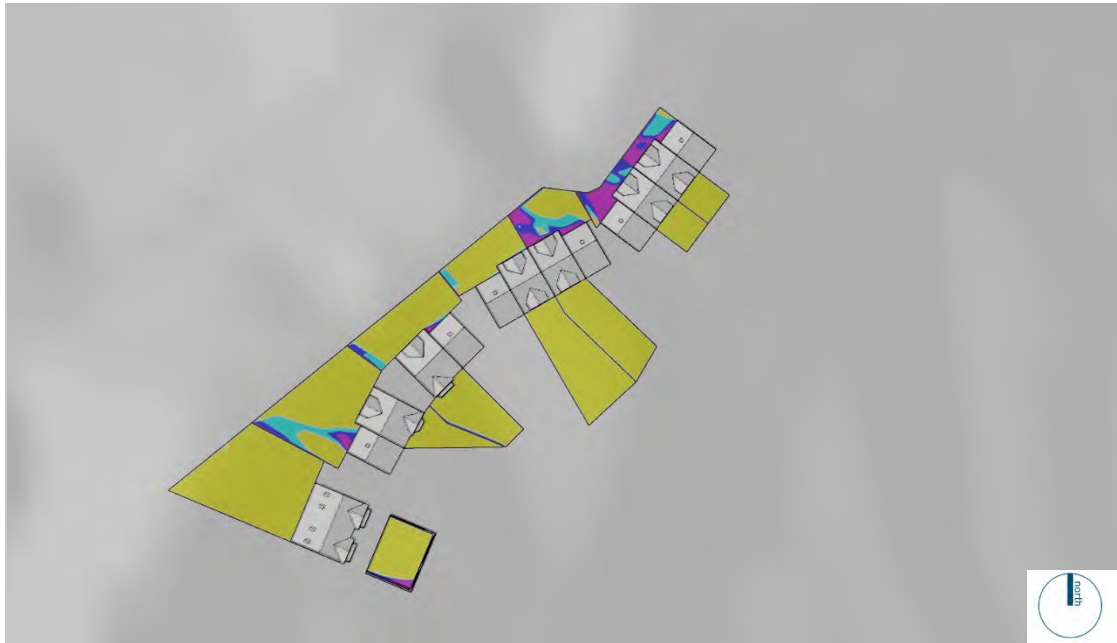


Figure 3: Amenity assessment with no trees modelled

- 2.3.5 BR 209 guidance suggests that trees are not included in this part of the assessment as the dapple shade from trees would be more pleasant than a deep shadow from a building. There is no methodology for this part of the assessment to apply a transparency factor to amenity areas.

Table 2: % of Amenity Space that receives direct sunlight

Plot	% of amenity space that receives 2 or more hours of direct sunlight on March 21 with opaque trees	% of amenity space that receives 2 or more hours of direct sunlight on March 21 with no trees	Complies with BR 209 recommendations
1	1.6%	3.8%	✗
	96.3%	96.3%	✓
2	3.2%	3.2%	✗
	99.7%	99.7%	✓
3	2.5%	30.8%	✗
	98.9%	98.9%	✓
4	8.8%	79.7%	✓
	99.9%	99.9%	✓
5	41.7%	87.6%	✓
	92.9%	92.9%	✓

Plot	% of amenity space that receives 2 or more hours of direct sunlight on March 21 with opaque trees	% of amenity space that receives 2 or more hours of direct sunlight on March 21 with no trees	Complies with BR 209 recommendations
6	70.1%	70.2%	✓
	99.7%	99.7%	✓
7	100.0%	100.0%	✓
	83.3%	89.5%	✓

- 2.3.6 All proposed amenity areas apart from the rear amenity areas of plots 1, 2 and 3 exceed the recommended target values set in BR 209 guidance with opaque trees modelled.
- 2.3.7 Although the rear amenity areas of Plots 1, 2 and 3 do not meet BR 209 guidance. The front amenity areas to all 3 plots exceed the recommended target values set in BR 209, therefore all plots have access to an amenity space with adequate sunlight levels, complying with BR 209 guidance.

2.4 Sunlight – Shadow Mapping

2.4.1 BR 209 paragraph 3.3.14 states:

If a space is used all year round, the equinox (21 March) is the best date for which to prepare shadow plots as it gives an average level of shadowing.

2.4.2 Figures 4 to 10 show the shadow maps of the development site and the surrounding area. Shadow mapping provides a good visual record of when gardens and amenity spaces receive the most sunlight. The times have been taken at 9:00am, every hour until 16:00pm on the 21st of March.

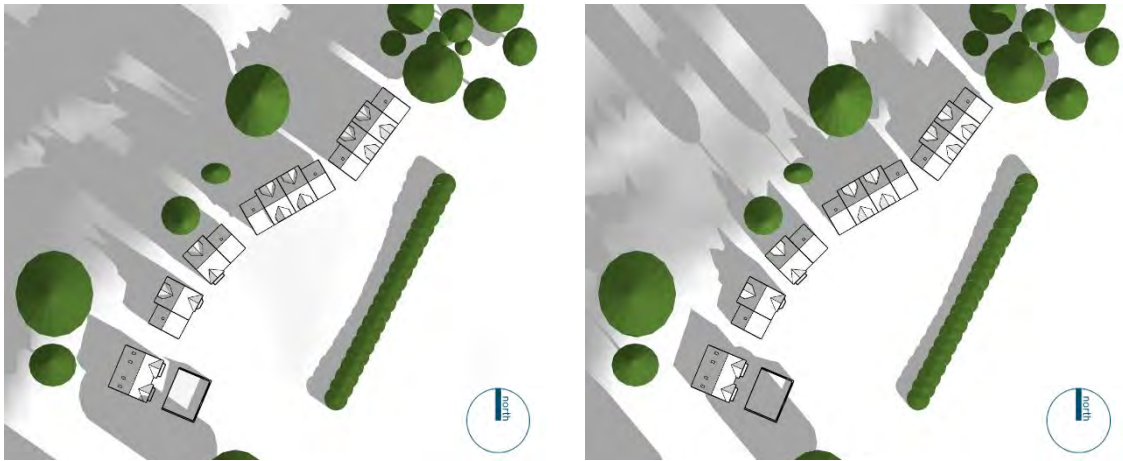


Figure 4 & 5: Shadow cast at 09:00am and 10:00am on 21 March

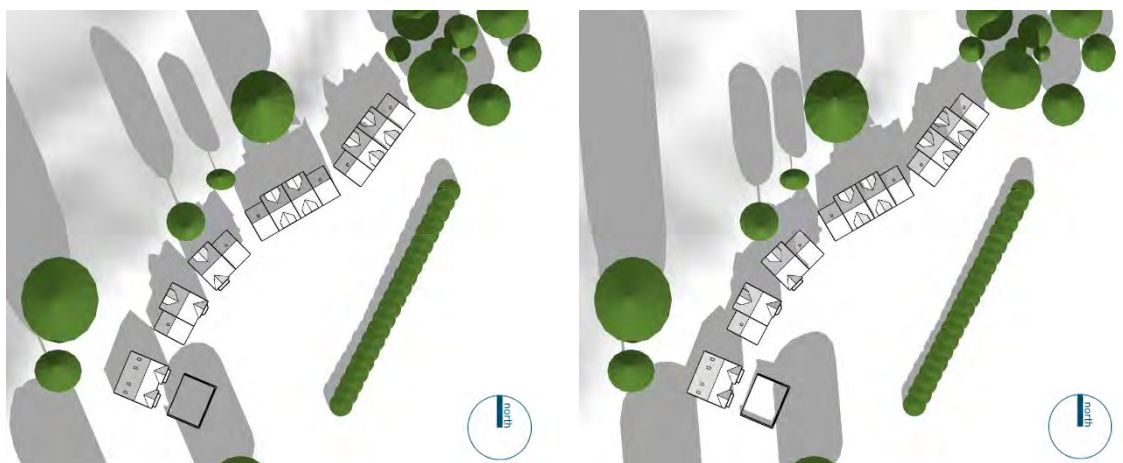


Figure 6 & 7: Shadow cast at 11:00am and 12:00am on 21 March

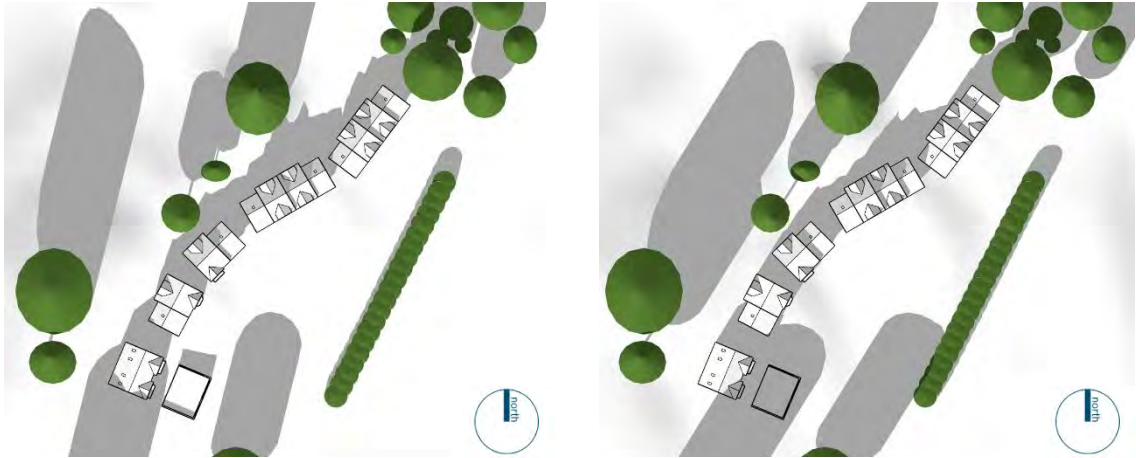


Figure 8 & 9: Shadow cast at 13:00pm and 14:00pm on 21 March

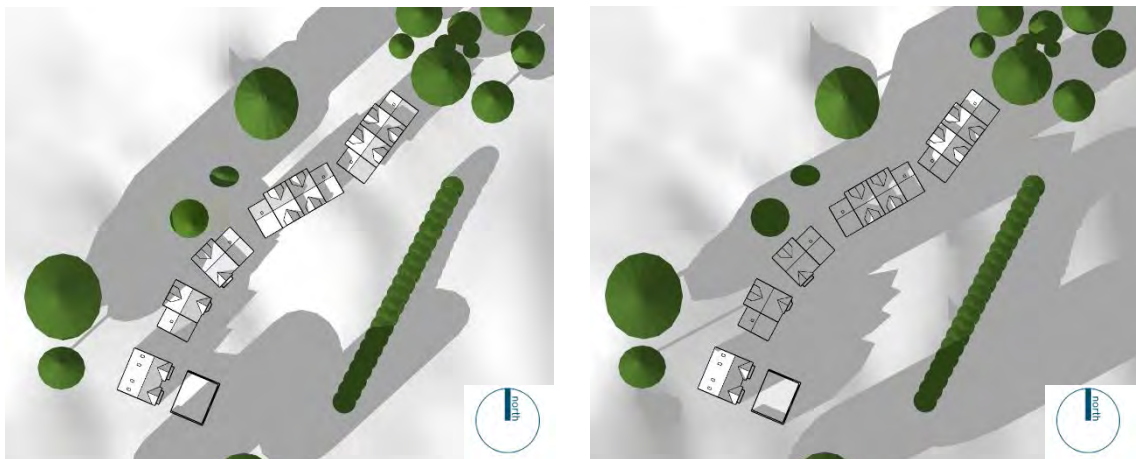


Figure 10 & 11: Shadow cast at 15:00pm and 16:00pm on 21 March

3 Conclusions

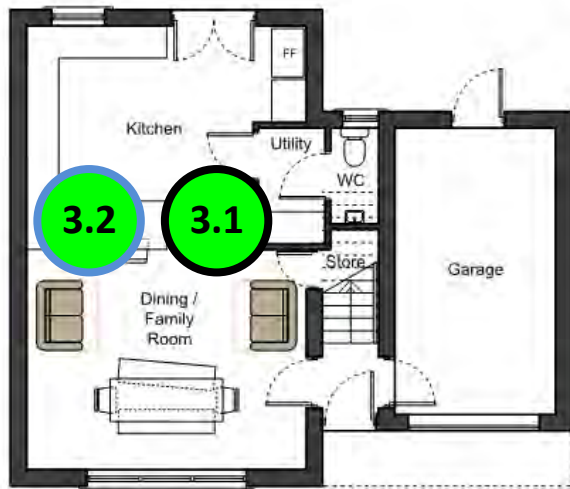
- 3.1.1 An assessment of the daylight and sunlight levels of the proposed 7 dwellings, has been undertaken in accordance with guidance set out in *BRE report 209, Site Layout Planning for Daylight and Sunlight: A guide to good practice, Second Edition, 2011 (BR 209)*, and *BS 8206-2 Code of Practice for Daylighting*.
- 3.1.2 Whilst *BR 209* gives numerical guidelines for assessing daylight and sunlight levels, it is important to bear in mind that the guidance is predicated on a suburban model of development and that the numerical guidelines should be interpreted flexibly. *BR 209* Paragraph 1.6 states:

The guide (*BR 209*) is intended for building designers and their clients, consultants and planning officials. The advice given here is not mandatory and the guide should not be taken as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

- 3.1.3 With this in mind, the following conclusions have been drawn:
- 1) All habitable rooms of the proposed 7 dwellings, exceed the average daylight factors (ADF) recommended in *BR 209* and *BS 8206-2*, in both summer and winter months, complying with *BR 209* guidance.
 - 2) All 7 dwellings of the proposed development have access to a window within 90° due south and exceeds 25% Annual Probable Sunlight Hours (APSH) and 5% Winter Probable Sunlight Hours (WPSH), complying with *BR 209* guidance.
 - 3) All proposed amenity areas apart from the rear amenity areas of plots 1, 2 and 3 exceed the recommended target values set in *BR 209* guidance with opaque trees modelled.

Although the rear amenity areas of Plots 1, 2 and 3 do not meet *BR 209* guidance. The front amenity areas to all 3 plots exceed the recommended target values set in *BR 209*, therefore all plots have access to an amenity space with adequate sunlight levels, complying with *BR 209* guidance.

Appendix A – Average Daylight Factors (ADFs)



Ground Floor Plan

Typical House Type A (4 Bedroom)

Total Area: 172m²

plus garage @ 16m²

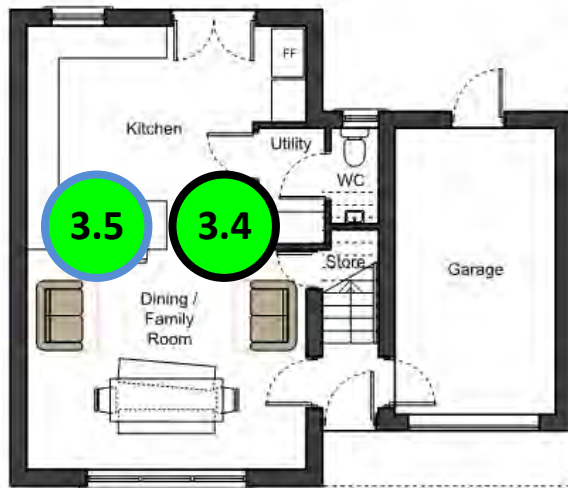


First Floor Plan



Second Floor Plan

Proposed Floor Plans - Plot 1



Ground Floor Plan

Typical House Type A (4 Bedroom)

Total Area: 172m²
plus garage @ 16m²

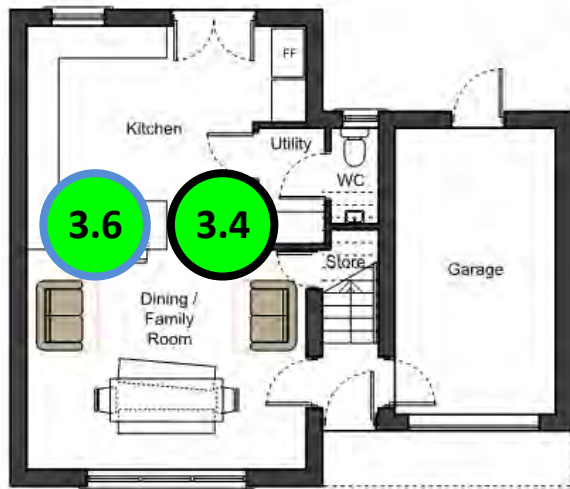


First Floor Plan



Second Floor Plan

Proposed Floor Plans - Plot 2



Ground Floor Plan

Typical House Type A (4 Bedroom)
 Total Area: 172m²
 plus garage @ 16m²

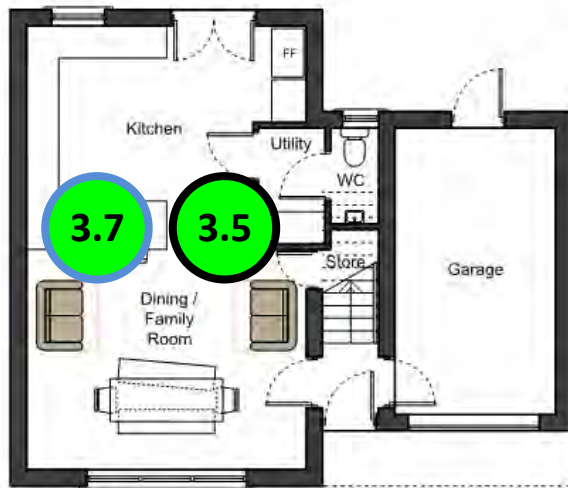


First Floor Plan



Second Floor Plan

Proposed Floor Plans - Plot 3



Ground Floor Plan

Typical House Type A (4 Bedroom)
 Total Area: 172m²
 plus garage @ 16m²



First Floor Plan



Second Floor Plan

Proposed Floor Plans – Plot 4



Ground Floor Plan

Typical House Type B (4 Bedroom)

Total Area: 208m²

plus garage @ 18m²



First Floor Plan



Second Floor Plan

01	Proposed Floor Plans - Plot 5
22	Scale 1:100 @ A3



Ground Floor Plan

House Type B2 (4 Bedroom)

Total Area: 208m²
plus garage @ 18m²



First Floor Plan



Second Floor Plan

03	Proposed Floor Plans - Plot 6
22	

Scale 1:100 @ A3



Ground Floor Plan

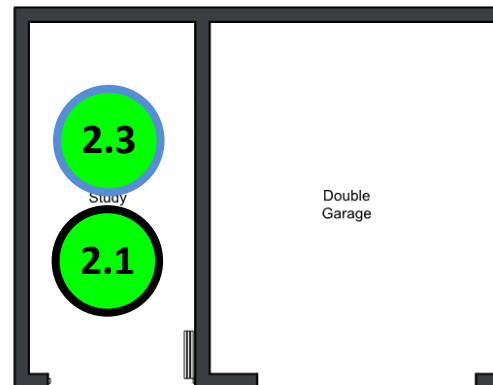
House Type C (6 Bedroom)
Total Area: 257m²
plus garage



First Floor Plan



Second Floor Plan



Detached Garage Plan (Terrace Over)
Total Ground Floor Area: 73m²

01	Proposed Floor Plans
23	

Scale 1:100 @ A1

Appendix 15

Subject:

FW: Planning Appeal HPK/2020/0301 at Taxal Edge

From: Ralph Pettengell <Ralph.Pettengell@sjpp.co.uk>

Sent: 24 July 2021 13:51

To: support <support@emeryplanning.com>

Subject: Planning Appeal HPK/2020/0301 at Taxal Edge

I am writing to you as agents dealing with the appeal against the refusal for planning Taxal Edge reference HPK/2020/0301.

I live at 28 Linglongs Avenue, Whaley Bridge and every morning when I wake up and open the bedroom curtains I look onto what our family consider is now an eyesore, the old school known as Taxal Edge . My concerns regarding the refusal of this application are set out below and I have been in touch with Treville Properties setting out my support for what I consider is a refreshing, professional change to the landscape and a significant improvement to the carbon footprint of the area and the safety of local residents safety. My Concerns regarding the current site are as follows;

- 1. The site is an eyesore and needs a complete makeover
 - 2. The site looks unsafe
 - 3. The perimeter wall is unsafe bordering on a well walked footpath and a new development would get this made safe.
 - 4. Objector's comments that the access road was suitable for a school but unsuitable for 7 houses defies belief, a new build would improve the road and access.
 - 5. The Gladman's site/Barratts site gave High Peak BC the opportunity to install all the low cost affordable housing to meet Whaley's needs for affordable housing for the foreseeable future.
 - 6. I want to see full redevelopment of the site , to make it safe , including the perimeter wall and stop it being an eye sore .
 - 7. The current unit is completely environmentally unfriendly , modern build will help with our climate change crusade and significantly improve the Carbon Footprint of Whaley Bridge which I am passionate about.
 - 8. The current site ,due to its age will have hidden risks that will be removed with a new build , for example asbestos.
-
- **I am happy for you to make my comments available to the inspector who is involved in the appeal process.**

Kind regards
Ralph Pettengell

Sent from my iPhone

If you wish to view the St. James's Place Partnership email disclaimer, please access the link below

https://url6.mailanyone.net/v1/?m=1m7H7U-0004L7-3a&i=57e1b682&c=QVtfPbErTJpXfX_nSitOd8nvBZxGul3zbZ3_MGHa6eJ-K26l0QJlpPi6xxRUkeodWC5Ja-

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