



WHITE PEAK Planning

**Town and Country Planning Act 1990 as
amended by the Planning and Compensation
Act 1991 Appeal under Section 174**

APP/H1033/C/22/3297854

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

Appellant: Mr Gary Stephen Cullen

Proof of Evidence on Matters of Enforcement

Prepared by Steven Gunn-Russell BA(Hons),
DipTP, MRTPI

October 2022

Ref: 2022.018

White Peak Planning Ltd
Didsbury Business Centre
137 Barlow Moor Road
Manchester
M20 2PW

T: 0845 410 0117
E: info@whitepeakplanning.co.uk

www.whitepeakplanning.co.uk

Contents

1.0	Qualifications and Experience	2
2.0	Introduction and Scope of Evidence	3
3.0	Site Description and Planning History	4
4.0	Description of the Enforcement Case	5
4.1	Introduction and Description of Development	5
4.2	Documents	5
5.0	Grounds of Appeal	6
5.1	Reasons for Enforcement	6
5.2	Grounds of Appeal	6
6.0	The Main Issues	7
7.0	The Development Plan, Local Planning Guidance and Other Material Considerations	8
8.0	Analysis of the Main Issues	9
8.1	Issue One: Whether the matters alleged constitute a breach of planning control	9
8.2	Issue Two: If the matters alleged do constitute a breach of planning control, whether it is too late for enforcement action to be taken	14
8.3	Issue Four: The effect of the matters alleged and the proposed development on character and appearance of the site and surrounding area	19
8.4	Issue Seven: Whether the steps required to be taken by the notice exceed what is necessary to remedy the breach of planning control, or as the case may be, the injury to amenity	23
8.5	Issue Eight: Whether the time for compliance is reasonable	24
9.0	Summary and Conclusions	25

Appendices

Appendix A – Chronology of the Classroom Block (October 2022)

Appendix B – Google Earth Images

Appendix C – Methodology of Measurements (October 2022)

1.0 Qualifications and Experience

- 1.1.1 I am a Senior Planning Consultant at White Peak Planning (WPP), an independent Planning and Sustainable Development consultancy, where I have worked since Summer 2022.
- 1.1.2 I am a Chartered Town Planner and have 20 years of experience working in local government since 2002 including development control, strategic policy, planning research, development management. My breadth of experience includes assessment of a wide range of planning application types including minor domestic and major housing applications, providing policy advice, dealing with planning appeals, and supporting enforcement work.
- 1.1.3 With many years of Council experience behind me my work is now focused on the preparation and management of planning applications, for residential and residential-led mixed-use developments.
- 1.1.4 I have been involved in this enforcement appeal since September 2022.
- 1.1.5 The evidence which I have prepared and provide for this Appeal (ref: APP/H1033/C/22/3297854) in this Proof of Evidence is true and has been prepared and is given in accordance with the guidance of the Royal Town Planning Institute for which I have held chartered membership since 2005. I confirm that the opinions expressed are my true and professional opinions.

2.0 Introduction and Scope of Evidence

2.1.1 This Proof of Evidence relates to matters of planning and enforcement. It responds to the appellants appeal in response to High Peak District Council's (the Council) Enforcement Notice (31/03/2022).

2.1.2 It should be read alongside the Proofs of Evidence prepared by:

- Rachael Simpson, senior planning officer (HPBC), in relation to the conjoined planning appeal (Appeal B) and planning history.
- Anton Cannell, of Derbyshire Land & Practice (DLP), for the Council in relation to landscape and trees.
- Mary McGuire, of Derbyshire Land & Practice (DLP), for the Council in relation to urban design.

2.1.3 My evidence refers to the following:

- The enforcement notice dated 31.3.22 (**CD5.1**).
- Development Plan policies, Supplementary Planning Guidance and other material considerations listed in the Statement of Case (29/06/2022) (**CD5.4**).
- Appellant Statement of Case and response to submissions by the Council (**CD5.3** and **CD5.5**).
- Council Statement of Case and response to submissions by the appellant (**CD5.4** and **CD5.6**).
- Statement of Common Ground (Oct 2022) (**CD5.7**).
- Methodology for calculating the measurements of the original building and current building (Oct 2022) (Appendix to the **SoCG**).
- Classroom Block Chronology (Oct 2022) (Appendix to the **PoE**).

3.0 Site Description and Planning History

- 3.1.1 There have been multiple planning applications submitted in relation to Taxal Edge 184 Macclesfield Road (with potential value as a NDHA), and the building to the rear of the Edwardian house referred to in the proof as “the classroom block”. The building’s unofficial name highlights its previous history as a classroom block directly associated with the use of the main building as a boarding hostel and school.
- 3.1.2 The Enforcement Appeal and this Proof of Evidence relate solely to the classroom block”.
- 3.1.3 The site description and planning history are set out below:
- HPK/0002/5081 – Additional car parking provision adjacent to the main driveway – approved 6th April 1987
 - HPK/2008/0069 – Change of use of Taxal Edge from a boarding hostel and associated ancillary residential accommodation to use as a single dwelling – approved 28th March 2008
 - HPK/2009/0209 – Change of use from a single dwelling to 10 apartments involving internal alterations only – withdrawn 26th June 2009;
 - HPK/2009/0689 – Conversion of Taxal Edge to provide 7 no. apartments and the conversion of the classroom block and disused garage to 2 no. detached houses – approved 29th March 2010.
 - HPK/2013/0503* – Proposed conversion of Taxal Edge to 5 no. apartments and construction of 2 no. semi-detached houses where the gymnasium is located – approved 25th November 2013
 - HPK/2015/0518* – Outline planning application for 2 no. semi- detached dwellings – refused 11th December 2015
 - HPK/2022/0301* – Demolition of the existing building known as “Taxal Edge” and the detached garage building and the erection of 7 no. dwellings – subject to Appeal B (PINS reference APP/H1033/W/21/3272745).
- 3.1.4 NB: For clarity the planning applications marked (*) are considered to relate only to the main Edwardian house and not the “Classroom Block”.

4.0 Description of the Enforcement Case

4.1 Introduction and Description of Development

4.1.1 The description of development, as stated on the Enforcement Notice (HPE/2019/00014), is:

'Description: "the alteration of a building ("the classroom block") comprising the raising of the roof and steepness of the pitch of the roof, the insertion of three dormer windows on the eastern roof slope and changes to fenestration on the eastern elevation".

4.1.2 As mentioned in the Council's Response to the Appellants Statement of Case (CD5.6 para.2) the potential enforcement issue first came to the Council's attention during assessment of planning application HPK/2020/0301 relating to the Taxal Edge site (Appeal B) and is noted in the Committee report at para 2.3, see **CD3.1**. However, no further action was taken in respect of the current building until after the aborted hearing of Appeal B in March 2022 when in preparation for the hearing plans were found relating to an old planning application HPK/0002/5081 and it was clear then that alterations to the classroom block had been made without planning consent. Moreover, the appellant appears to rely on the design character of this building to show consistency in design terms with the new proposed development, Appeal B.

4.1.3 The planning enforcement team were then involved and having viewed the relevant documents relating to the classroom block the council considered the unauthorised building works resulted in a building objectionable in policy design and landscape terms as set out in the notice itself and statement of case and therefore issued the enforcement notice (the subject of Appeal A) on 31/03/2022.

4.1.4 After service of the enforcement notice the enforcement team visited the site relating to Appeal B to view what works had taken place there, also as referred to in the appellant's statement of case at para 1.10. It should be noted that this visit was unrelated to Appeal A but was a fact-finding visit to ascertain what works had been carried out at 184 Macclesfield Road.

4.1.5 I was appointed to deal with the enforcement aspects of the appeal in September 2022.

4.2 Documents

4.2.1 Following service of the Enforcement Notice and the lodging of this appeal, parties submitted Statements of Case on 29/06/2022 produced by Emery Planning (**CD5.3**) and the Council (CD5.4), and responses to those made by the respective parties on 26/07/2022 (**CD5.5 and 5.6**).

5.0 Grounds of Appeal

5.1 Reasons for Enforcement

5.1.1 The reasons for the Council's decision to undertake enforcement action is set out in the Enforcement Notice dated 31/03/2022 (**CD5.1**).

5.2 Grounds of Appeal

5.2.1 The appeal is submitted under Section 174 of the Town and Country Planning Act 1990 (as amended) against the Enforcement Notice HPE/2019/00014 by the Council.

5.2.2 The appellant states their case will be presented through the following propositions:

5.2.3 Proposition 1: That there has not been a breach of planning control (Ground C)

5.2.4 Proposition 2 – that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters (Ground D)

5.2.5 Proposition 3 – that planning permission should be granted for the development enforced against (Ground A)

5.2.6 Proposition 4 - that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach (Ground F)

5.2.7 Proposition 5 – that the time given to comply with the notice is too short (Ground G)

5.2.8 The appeal is to follow the Inquiry procedure and the main issues, as agreed with the Inspector at the Case Management Conference (CMC) on 3rd October 2022 are set out in *Section 6 (Reference: Case Management Conference Note)*.

6.0 The Main Issues

6.1.1 The main issues in this appeal are:

1. whether the matters alleged constitute a breach of planning control. This is pertinent to the ground (c) appeal;
2. if the matters alleged do constitute a breach of planning control, whether it is too late for enforcement action to be taken. This is pertinent to the ground (d) appeal;
3. the effect of the matters alleged and the proposed development on character and appearance of the site and surrounding area. This is pertinent to the ground (a) appeal;
4. whether the steps required to be taken by the notice exceed what is necessary to remedy the breach of planning control, or as the case may be, the injury to amenity. This is pertinent to the ground (f) appeal; and
5. whether the steps required to be taken by the notice exceed what is necessary to remedy the breach of planning control, or as the case may be, the injury to amenity. This is pertinent to the ground (g) appeal, although the Council has agreed that 12 months would be acceptable.

7.0 The Development Plan, Local Planning Guidance and Other Material Considerations

7.1.1 National Planning policies, Local Plan policies and associated Supplementary Planning Documents relevant to this appeal are set out in the Enforcement Notice.

7.1.2 Other material considerations are listed in Section 5 of the Statement of Common Ground (**CD5.7**).

- i. Town and Country Planning (General Permitted Development) England (Order) 2015 as amended (GPDO)
- ii. NPPG Enforcement and post-permission matters (22/07/2019)
- iii. Evidence
 - a. Site visit photos
 - b. Aerial photography from Google Earth
 - c. Planning Control (previous planning applications and consents)
 - d. Information submitted by the appellant
- iv. Evidence that is absent
 - a. Building regulations records or completion certificate (none)
 - b. Council Tax records (none)
 - c. Electoral Roll (none)

8.0 Analysis of the Main Issues

8.1 Issue One: Whether the matters alleged constitute a breach of planning control.

8.1.1 The Council's view is that the works as described in the notice constitute development, that they do not have a grant of planning permission from the Council and that they are not permitted development under the GPDO.

8.1.2 It should be noted that the Council did not enforce against other breaches it considered had taken place, namely a small extension to the rear (not considered to be expedient) and use as a dwelling house as it considered that the principle of residential use of the classroom building had previously been accepted.

Definition of development

8.1.3 The legal definition of 'development' provided in section 55(1) of the Town and Country Planning Act 1990 (as amended) (the Act) states:

"Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

8.1.4 Furthermore section 55(1A) of the Town and Country Planning Act 1990 (as amended) (the Act) states:

"For the purposes of this Act "building operations" includes—

(a) demolition of buildings;

(b) rebuilding;

(c) structural alterations of or additions to buildings; and

(d) other operations normally undertaken by a person carrying on business as a builder."

8.1.5 From section 55(1) and 55(1A) above it can be construed that the works which have taken place on the site constitutes development. This includes structural alterations of, and additions to, buildings and operations normally undertaken by a person carrying on business as a builder. It is, therefore, considered that the raising of the roof and steepness of the pitch of the roof, the insertion of three dormer windows on the eastern roof slope and changes to fenestration on the eastern elevation constitutes development.

Permitted Use

8.1.6 Having concluded that the works comprise development consideration must be given as to whether the development is lawful because it either has a planning consent in place and the works have taken place in accordance with that consent or because the works comprise development permitted under the GPDO.

- 8.1.7 The appellant has contended that the change of use to residential took place before they acquired the property. However, no evidence has been submitted to show that the change of use took place at an earlier date or that the Classroom Block was lived in prior to its use by the current occupants. The Council has no such evidence in its records.
- 8.1.8 In 2008 planning permission HPK/2008/0069 was sought and granted for the appeal site and the site the subject of Appeal B for the:
- “Change of use of Taxal Edge from boarding hostel and associated ancillary residential accommodation to use as single family dwelling”.*
- 8.1.9 The HPK/2008/0069 consent was also subject to conditions including:
- “Condition 1: Standard three year time limit.*
- Condition 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.”*
- 8.1.10 However, with regards to the Classroom Block there is no evidence that the above conditions were discharged, further supported by the Planning Statement (by HPBC). The Council maintains that a domestic Council Tax registration has never been applied for at this property. As such the educational use remains the extant legal use of the Classroom Block.
- 8.1.11 In 2009 planning permission HPK/2009/0689 was sought and granted for the appeal site and the site the subject of Appeal B for the:
- “Conversion of single dwelling house to provide seven apartments and conversion of classroom block and disused garage into two detached houses”*
- 8.1.12 However this application can no longer be relied on due to the demolition of the gymnasium – which was permitted by HPK/2013/0503.
- 8.1.13 Following on from 2013 there are no other planning applications that specifically relate to the classroom block.
- 8.1.14 It should be emphasised that even if the residential use has been accepted in principle, the conversion approved in HPK/2009/0689 has not been done in accordance with the consent which specifically restricts any extensions or external alterations. With reference to the Chronology of the Classroom Block (see Appendix) there is photographic evidence to show how the original building looked at that time, and there have been no further planning consents since then that allow any external changes to the building.
- 8.1.15 As I consider that the works have not been carried out in accordance with any planning consent, I turn now to consideration of whether the works have been done in accordance with permitted development rights.

- 8.1.16 Photos of the original building are available in the Appendix: Chronology. Since the photos were taken in 2009 there are no permitted development exemptions for change of use from non-residential development to residential, and this requires that any change of use must be within the conditions of the approved planning application.
- 8.1.17 Articles 4 and 5 of the GPDO states:
- (4) Nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order.*
- (5) The permission granted by Schedule 2 does not apply if —*
- (a) in the case of permission granted in connection with an existing building, the building operations involved in the construction of that building are unlawful;*
- (b) in the case of permission granted in connection with an existing use, that use is unlawful.*
- 8.1.18 Having concluded that occupation of the property was not lawful (by way of consent or by permitted development rights) the permitted development rights that would normally flow from use of a building as a dwelling house under Schedule 2, Part 1 do not follow.
- 8.1.19 However, for completeness I continue to consider whether, if it is considered that use of the classroom block as a dwelling was lawful, permitted development rights would have permitted the works that have been carried out.
- 8.1.20 Permitted development exemptions of relevance to residential development that have been carried out to the classroom building are specified in the GPDO 2015-2021 Schedule 2, Part 1, Class A and Class AA, Class B, and Class C.
- 8.1.21 Class A allows for permitted development or other alteration of a dwellinghouse, but that development is not permitted if:
- (c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;*
- (d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;*
and
- (k) it would consist of or include (iv) an alteration to any part of the roof of the dwellinghouse*
- 8.1.22 The development that has taken place is higher than the roof of the original dwelling, higher than the eaves of the original dwelling, and exceeds 4m in height.
- 8.1.23 An estimate of the measurements was conducted using the information available and found that there appeared to be a substantial increase in both height and volume (see SoCG Appendix: Methodology of Measurements). Estimated measurements for the original building and current building are shown below.

Estimated measurements

Item	Original building
ridge height (north elevation)	7.19
eaves (east/ main elevation)	5.55
depth (excl. rear projection)	7.95
width of main elevation	11.79
Rear projection	1.14
Item	Current building
ridge height (north elevation)	10.39
eaves (east/ main elevation)	6.40
depth (excl. rear projection)	8.36
width of main elevation	12.21
Rear projection	1.33
Patio door window (1 st floor)	2.09

Measurements in metres

8.1.24 Class A allows for permitted development subject to conditions including:

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(c) where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse

8.1.25 Both the current materials and the roof pitch of the current building are substantially different the original buildings as shown by the 1987 plans (See Chronology Fig.2), 2009 photos (See Chronology Fig.4), and calculation of measurements (see Appendix: Methodology).

8.1.26 Class AA allows for enlargement of a dwellinghouse by construction of additional storeys subject to conditions including—

(a) the materials used in any exterior work must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;

(b) the development must not include a window in any wall or roof slope forming a side elevation of the dwelling house;

(c) the roof pitch of the principal part of the dwellinghouse following the development must be the same as the roof pitch of the existing dwellinghouse.

8.1.27 However, it is considered that the current materials are substantially different as set out above, there are windows in both side elevations, and the roof pitch is substantially different.

- 8.1.28 Class AA also requires that before beginning the development, the developer must apply to the local planning authority for prior approval as to
- (a) (ii) the external appearance of the dwellinghouse, including the design and architectural features of — (aa) the principal elevation of the dwellinghouse*
 - (c) the development must be completed within a period of 3 years starting with the date prior approval is granted;*
 - (d) the developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion; and*
 - (e) that notification must be in writing and include — (i) the name of the developer; (ii) the address of the dwellinghouse; and (iii) the date of completion.*
- 8.1.29 However, the Council has not received any Prior Approval application, nor any notification that the development has been completed.
- 8.1.30 Class B allows for additions to the roof of a dwellinghouse but highlights that development is not permitted if:
- (b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;*
 - (c) any part of the dwellinghouse would, as a result of the works, extend beyond the plane of any existing roof slope which forms the principal elevation of the dwellinghouse and fronts a highway;*
 - (d) the cubic content of the resulting roof space would exceed the cubic content of the original roof space by more than — (i) 40 cubic metres in the case of a terrace house, or (ii) 50 cubic metres in any other case;*
- 8.1.31 However, the roof is higher than the original roof, and the works extends beyond the plane of the original roof on the principal elevation which fronts a public highway (the PROW). Additionally, the new building has an increase in cubic volume of the roof (including raising of eaves) estimated at 213 cubic metres which exceeds the original roof space well in excess of 50 cubic metres.
- 8.1.32 Class C1 allows for other alterations to the roof of a dwellinghouse but highlights that development is not permitted if:
- (b) the alteration would protrude more than 0.15 metres beyond the plane of the slope of the original roof when measured from the perpendicular with the external surface of the original roof;*
 - (c) it would result in the highest part of the alteration being higher than the highest part of the original roof;*
- 8.1.33 Taking into account the Classroom Block having never completed any change of use, Part 7 Class M allows permitted development rights for schools. Development is not permitted by Class M if:
- (b) any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof;*

(d) if the height of any new building erected would exceed (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or (ii) in all other cases, 6 metres.

(e) if the height of the building as extended or altered would exceed- (ii) the height of the building being extended or altered;

8.1.34 However, the roof of the current building is above the height of the original roof, exceeds 6m and is higher than the height of the Classroom Block. As such even if the Classroom Block is considered to still have a school use the appellant has no recourse to permitted development under Class M.

Current Usage

8.1.35 The appellant contends that the Classroom Block is currently in use as a dwelling. A site visit on 23/09/2022 suggests this appears to be the case although officers did not enter the building and there was no close inspection through the windows for reasons of respectful privacy.

8.1.36 However, the classroom block has never been registered for Council Tax, never been registered on the Elections Register, and has not received a Building Regulations completion certificate. All utilities appear to be registered not to the Classroom Block but to the adjacent 184 Taxal Edge. Additionally the appellant has not provided any evidence of the building being insured.

8.1.37 As such there is no evidence that the building is legally recognised as a domestic property.

Conclusion

8.1.38 The external alterations include raising the roof height, increasing the roof slope, insertion of dormers and changes to window fenestration on the eastern elevation which materially affect the external appearance of the building and are considered to be works requiring planning permission.

8.1.39 The development which has taken place requires planning permission and even if it can be shown that use of the classroom block is lawful there are no permitted development rights available to the appellant because the development that has taken place does not comply with the conditions set out in the GPDO.

8.1.40 The Council has not received an application for a Certificate of Lawfulness for the current building. Furthermore, there is no evidence to prove Mr B ever lived in the conversion for the 2009 consent for it not to have been implemented – notwithstanding condition precedent matters.

8.2 Issue Two: If the matters alleged do constitute a breach of planning control, whether it is too late for enforcement action to be taken.

8.2.1 Operational development is immune from enforcement action 'after the end of the period of four years beginning with the date on which the operations were substantially completed' (Section 171(b) (1) TCPA 1990).

- 8.2.2 The Council's view is that it was not too late to take enforcement action as the building works were not substantially complete before four years of the date on which the enforcement notice was issued being the 31st March 2022, which I explain as follows.
- 8.2.3 There is no statutory definition for when building operations are substantially completed. The Council's view is that a building is substantially complete when it becomes fit for normal living. This plainly involves the completion of the construction of walls, roof, windows, site safety and security; capable of heating, connection to utilities, including water, gas and/or electricity.
- 8.2.4 The enforcement notice (HPE/2009/00014) was submitted on 31/03/2022, within four years of the works being under construction.

Roof height

- 8.2.5 Photographic evidence from Google Earth shows the original roof was visible on 18/06/2017. Elevational drawings supplied with application HPK/0002/5081 (in 1987) show the original height to be approximately 7.19m (see Appendix: Methodology).
- 8.2.6 Photographic evidence from the Appellant's own photo (see Chronology Fig.13) shows the original roof height had been raised by 04/11/2017. Photographic evidence from a recent site visit shows the current height to be approximately 10.39m. This represents an increase of 3.20m which is equivalent to an extra storey in height.
- 8.2.7 Similarly, the same plans and photography can be used to measure the height of the eaves (which are higher on the east elevation due to the slope). It is estimated that the eaves have been raised from 5.55m to 6.40m, which represents an increase of 0.85m and is equivalent to an extra storey in height.
- 8.2.8 It is estimated that the building's roof volume has increased from 76.84 cubic metres to 290.0 cubic metres, representing an increase of 213.16 cubic metres. This excludes the three dormer windows plus increase in thickness of the walls and therefore provides a conservative estimate.
- 8.2.9 Furthermore, the applicant contends that the roof was raised by the previous owner. However, the Council has not received any evidence of this. Nor has the Council received any planning applications for the external changes to the building. Had the applicant submitted either application, this would have demonstrated a genuine willingness to ensure due diligence in accordance with planning legislation.

Roof slope

- 8.2.10 Photographic evidence from Google Earth (see Chronology Fig.11) shows the original roof was visible on 18/06/2017. Elevational drawings supplied with application HPK/0002/5081 (in 1987) show the original slope pitch angle to be approximately 23 degrees.
- 8.2.11 Photographic evidence from the Appellant's own photo (see Chronology Fig.13) shows the original roof slope was visible on 04/11/2017. Photographic evidence from a recent site visit shows the current roof slope angle to be approximately 40 degrees. This represents an increase of 17 degrees.

Dormer windows

- 8.2.12 Photographic evidence from Google Earth (see Chronology Fig.11) shows the original roof (no dormer windows) was visible on 18/06/2017.
- 8.2.13 Photographic evidence (see Chronology Fig.13) from the Appellant's own photo shows that three dormer windows are visible on the front/main/East elevation by 04/11/2017. Although the three dormer windows are of a matching size, the left-hand side dormer is considered to be disproportionately dominant in relation to windows directly below at ground and first floor level.

Walls

- 8.2.14 Photographic evidence (see Chronology Fig.8) shows the original walls visible in September 2009. Original materials comprised brick, basic windows, and panels beneath the windows.
- 8.2.15 Photographic evidence from the Appellant's own photo (see Chronology Fig.13) shows that the walls on the front//East elevation and South elevation were still under construction on 04/11/2017. Further photographic evidence from site visits shows this remained the case on 19/04/2021 and 14/03/2022 (Chronology Fig.17-18).
- 8.2.16 Current materials are predominantly yellow stonework with some ornamentation. The building has been 'reskinned' with an additional layer added to all external elevations of the building approximately doubling the thickness of the walls and increasing its overall volume.

Window fenestration

- 8.2.17 Photographic evidence (See Chronology Fig.8) shows the original windows were visible in September 2009.
- 8.2.18 Photographic evidence from the Appellant's own photo (see Chronology Fig.13) shows that the window fenestration on the front/main/East elevation and South elevation is still under construction on 04/11/2017. Further photographic evidence from a site visit shows this remained the case on 14/03/2022.
- 8.2.19 The current building has 8 (eight) full height windows/ patio doors (some with Juliet balconies) covering all four elevations. Windows have a wide range of shapes and sizes, positioned generally in a mismatched arrangement although there is consistency in the top window lintel.
- 8.2.20 The appellant contends that they inserted replacement windows. However it is considered that for this to be the case the openings would need to be the same shape and size. Additionally the panels between glazing does not count as an opening.

Rear porch

- 8.2.21 Evidence from floorplans (See Chronology Fig.6) submitted with planning application KPK/2009/0689 show the single-storey rear porch did not exist in 2009.
- 8.2.22 Photographic evidence (See Chronology Fig.15) shows the rear porch was visible by 04/08/2020, although the photo does not clearly show the construction progress.

8.2.23 Construction of the rear porch represents additional floorspace in relation to the original building. This porch would be permitted development, if built on its own, however, when built together with the other changes (as mentioned above), it requires planning permission.

Ongoing building work

8.2.24 Evidence (see Chronology) shows that building work was still ongoing during site visits on 24/04/2020 (Fig.14), 04/08/2020 (Fig.15), 19/04/2021 (Fig.17), 14/03/2022 (Fig.18), and 23/09/2022 (Fig.32). It was observed that along the north elevation there is a large area of exposed breeze blocks with the erection of trellis fencing, plus an exposed lintel (red) above the doorway together with clearly incomplete stonework leaving gaps in the external wall, plus additional breeze blocks partially built in a perpendicular position to that elevation. There are exposed breeze blocks with the erection of trellis fencing alongside the north elevation.

8.2.25 These external works combined show that construction work is still ongoing. The shape and position of the breezeblocks suggests that the appellant has plans for further building work such as a side garage or other similar single storey construction. As such the works are still ongoing, and not substantially complete greater than 4 years prior to the enforcement notice.

Building project incomplete

8.2.26 The Council's view is that the works comprise a single project and not a series of projects acquiring immunity at different times.

- i. Raising of the roof – the appellants statement claims this was carried out by his predecessor before he moved in in 2016. However, no evidence has been provided for this.
- ii. Dormers – the appellant states these were inserted in 2017. However, no evidence has been provided for this.
- i. Windows – photographic evidence shows work seemed to be ongoing into 2020 according to his evidence given at the hearing in March 2022.
- ii. Side garage/ additional domestic space – a recent site visit shows this to be ongoing due to the large section of exposed breeze blocks and exposed lintel with missing stonework, and further breezeblocks laid out in a perpendicular position to the side elevation. The breezeblocks in both sections are positioned on the north elevation such that there is clearly an intention for further building work.

8.2.27 The appellant has not provided any contemporaneous documentary evidence to show when the works were completed such as receipts for materials; building regulations; registration for council tax and utilities metering. The appellant's evidence is neither specific nor compelling.

8.2.28 Raising of roof height – based on simple visual observation the roof ridge has clearly been increased from an equivalent two-storey building to an equivalent three-storey building.

8.2.29 With regards to the original building, plans are available from application HPK/0002/5081 (in 1987) including floorplans and elevations (see Chronology

Fig.2). 2009 floorplans are also available from application HPK/2009/0689 (see Chronology Fig.6). For the current building there are no scale plans available, although it is possible to calculate estimated measurements using photographs of the building taken during site visits. For these estimated heights can be taken from the patio doors (typically 2.09m high) and in turn applied to the overall roof ridge height.

Substantial completion

- 8.2.30 The Council refers to **Section 171B(1) of the Town & Country Planning 1990 Act** which sets out that where there has been a breach of planning control consisting of the carrying out without planning permission of building operations, no enforcement action may be taken after the end of the period '*of 4 years beginning with the date on which the operations were substantially completed*'.
- 8.2.31 The Council also refers to the cases of '*Ewen Developments Ltd V SoS & North Norfolk DC 06/02/80*' and '*Worthy Fuel Injections Ltd v SoS 23/07/82*', both of which clarified that a building constructed gradually, over the course of time, was one operation, even though parts of the structure or development had been constructed more than 4 years prior to the service of an enforcement notice. Thus, any operational development carried out more than 4 years prior to the issue of an enforcement notice, would not be immune from enforcement action, unless the development as a whole was substantially completed at least 4 years prior to the issue of the notice.
- 8.2.32 The Council's view is that the insertion of windows on the South elevation are an integral part of the development by providing a building capable of heating, safety, and security. The windows are considered to be a component part of a single or overall operation, carried out over a period of time, in order to facilitate the habitable use of the building. In the Council's opinion this could not have been '*substantially completed*' until all the windows are fully installed and thus enabled the building to become normally habitable.
- 8.2.33 Secondly, the Council considers that the development of the building is still incomplete and in fact ongoing as evident from the incomplete building work visible along the North elevation from the exposed breeze blocks, exposed lintel (red), missing stonework, and breeze blocks in a perpendicular position to the north elevation.
- 8.2.34 Thirdly, the Council refers to the appellants' own evidence, in a photograph taken on 04/11/2017 (see Chronology Fig.13) which shows substantial parts of the building as incomplete/ under construction. This photo shows the building under construction extensive building work in progress including exposed sections including part of the roof visible under the eaves, a long steel beam, wooden boards, steel beams, brick columns and steel columns, plus chipboard or plasterboard.
- 8.2.35 Aerial photography on 24/04/2020 (see Chronology Fig.14) shows the Classroom Block with vans and rubble around the site which suggests ongoing building work.
- 8.2.36 The Council contends that the operations comprising the installation of windows which was not completed until August 2020, and ongoing building work which is still in progress are a single operation and that the enforcement action was taken well within the required 4-year period.

Conclusion

- 8.2.37 The council's evidence shows: the condition and measurements of the original building; the works that have been carried out/ under construction for the current building; and when the works were substantially complete.
- 8.2.38 The Council considers that the works was not substantially complete by 06/03/2022 and were in fact still under construction by 23/09/2022. As such the building project was still under construction within 4-year prior to the submission of the Enforcement Notice.
- 8.2.39 It is also evident that the building has no council tax record, no building control completion certificate, and no electoral roll registration.

8.3 Issue Four: The effect of the matters alleged and the proposed development on character and appearance of the site and surrounding area. This is pertinent to the ground (a) appeal on Appeal A and Appeal B.

- 8.3.1 The appellant submitted a Ground (a) appeal Proposition 3 – That planning permission should be granted for the matters alleged in the notice (Ground A).
- 8.3.2 The Council's view is that the development has a detrimental impact on the character of the area contrary to the Development Plan. Planning permission for the development would be refused.
- 8.3.3 The Classroom Block is located outside the Whaley Bridge built-up-area but outside the Green Belt. This location is within the 'Settled Valley Pastures' Landscape Character Type within the Dark Peak Landscape Character Area.

Landscape and Design

- 8.3.4 Taxal Edge is visually part of the wider landscape and is considered a sensitive landscape by the Areas of Multiple Environmental Sensitivity (AMES) study carried out by Derbyshire County Council as identified in the Landscape Statement (by DLP). The statement reports that Taxal Edge is visually prominent from the east and southeast for a good number of receptors many of which are of high sensitivity
- 8.3.5 Local Plan Policy EQ2 'Landscape Character' highlights the Council will "seek to protect, enhance, and restore the landscape character of the Plan Area for its own intrinsic beauty and for its economic, environmental, and social wellbeing of the Plan area". It continues 'This will be achieved by:...Requiring that development proposals are informed by, and are sympathetic to the distinctive landscape character areas as identified in the Landscape Character Supplementary Planning Document and also take into account other evidence of historic landscape characterisation, landscape sensitivity, landscape impact and the setting of the Peak District National Park and where appropriate incorporate landscape mitigation measures;...Requiring that development proposals protect and/or enhance the character, appearance and local distinctiveness of the landscape and landscape setting of the Peak District National Park; ...Resisting development which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement as identified in the Landscape Impact Assessment'.

- 8.3.6 However, it is considered that the development is not sympathetic to the distinctive landscape character by virtue of the insensitive scale and dominance of the roof height, slope, and dormers in relation to the context of the surrounding area both in terms of the wooded area around Taxal Edge, the nearby residential streets, and views from across the valley (see Chronology Fig.19-34, and 35, 36), further supported by the Urban Design Statement (by DLP).
- 8.3.7 The Landscape Statement (by DLP) considers the impact on various Public Rights of Way across the valley as viewed from viewpoint E (Shallcross Road), Viewpoint G junction of Buxton Road and B5470, and viewpoint H (Buxton Road). This highlights that the Classroom Block and wider Taxal Edge site are set in the context of a wooded area outside the settlement boundary. These views are mostly relevant to residents along and above Buxton Road where development of the site would change the nature of the view of a wooded skyline
- 8.3.8 These viewpoints demonstrate the prominent position of the wider site in views from the east and that it is highly visible along the hillside. The visual impact of the current building fails to protect or enhance the character, appearance, and local distinctiveness of the area.
- 8.3.9 Local Plan Policy EQ3 'Rural Development' states that "*Outside the settlement boundaries... the Council will seek 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*". It goes on to state that redevelopment of a previously developed site must "*not have an adverse impact on the character and appearance of the rural area*", must be of a "*high quality design and protects or enhances landscape character and the setting of the Peak District National Park*", and "*Where the existing building is in an isolated location the development should lead to an enhancement of the immediate setting*".
- 8.3.10 This site is outside the settlement boundary of Whalley Range. Although the development would appear to support the reuse of a vacant former school building it is considered that the current development has an adverse impact on the character and appearance of this rural area by virtue of its failure to satisfy the policies in the Council's Landscape Character Assessment SPD and this is further supported by the Landscape Statement (by DLP).
- 8.3.11 Although the current building is partly obscured by deciduous trees around the site, it is highly visible from nearby streets in Whaley Bridge and across the valley particularly during autumn and winter as shown by the Landscape Statement (by DLP), which highlights that the Classroom Block and wider Taxal Edge site are set within a character that relates to the countryside rather than the urban area of Whaley Bridge.

Character

- 8.3.12 NPPF section 15 highlights "*decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes*" and by "*recognising the intrinsic character and beauty of the countryside*".
- 8.3.13 The Council's Landscape Character Assessment SPD 2006 specifically describes the High Peak Settled Valley Pastures as one such valued landscape area, which the Council seeks to protect, describing the area as a pastoral landscape well wooded with scattered farmsteads outside the compact settlements. This guidance

emphasises development principles including plain elevations with doors and windows recessed into walls, the need for consideration to the design proportions of windows, lintels, and sills, with emphasis that dormers are not appropriate.

- 8.3.14 As such the immediate area around the Classroom Block is considered to have a very strong countryside and woodland character which is seriously harmed by the height of the current building and associated dormer windows.

Design and Visual Amenity

- 8.3.15 Local Plan Policy EQ6 'Design and Place Making' states that 'All development should be well designed and of a high quality that responds positively to both its environment and the challenge of climate change, whilst also contributing to local distinctiveness and sense of place'. This policy continues with emphasis on 'Requiring development to be well designed to respect the character, identity and context of High Peak's townscapes and landscapes' and 'Requiring that development contributes positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features'.
- 8.3.16 However it is considered that the development is of poor quality with its dominant height, large dormer windows, mismatched arrangement of windows on all elevations, lack of symmetrical presentation, absence of a main front door on the main front elevation, and low solid to void ratio.
- 8.3.17 The Council's **SPD Landscape Character Assessment 2006** further supports this, emphasising that design should incorporate plain elevations with doors and windows recessed into walls, with particular consideration to the design and proportion of windows, and states that dormer windows are not appropriate within the Settles Valley Pastures area.
- 8.3.18 The Council's **SPD High Peak Design Guide 2018** describes High Peak as "*a special place of exceptional beauty. Buildings, either singly within the landscape or collectively in towns and villages, contribute greatly to that beauty*".
- 8.3.19 Dormer windows are therefore considered to be unacceptable in this location. The current building has 8 (eight) sets of full height windows/ patio door windows). Although the three dormers' windows themselves have a degree of consistency there is a poor relationship between these and the rest of the dwelling. Despite the three dormer windows having a matching size, the left-hand side dormer is considered to be disproportionately over dominant in relation to smaller windows directly below at ground and first floor level.
- 8.3.20 The Council's **SPD Residential Design Guide 2005** states that "*Three storey dwellings offer a greater volume of space but care must be taken to not exceed the established roofline. Incorporating dormers to rear elevations and using Velux roof windows can compensate for this*". Para 6.3.8 states "*dormers should be positioned to the rear of dwellings where they cannot be seen as clearly or consider the use of Velux roof windows*", and Para 6.3.9 states "*Dormers are not found outside of Buxton*". Para 9.4.2 adds "*Dormers pose difficulties in terms of design and overlooking. They should be kept as small and simple as possible; they will often be unacceptable on the front elevation of houses*".
- 8.3.21 However, the development is effectively a three storey property, exceeds the original roofline, incorporates three large dormers to the front/main elevation in an

area outside Buxton. Furthermore the **SPD Residential Design Guide 2005** also mentions that all openings should maintain proportion and symmetry which this development lacks significantly.

- 8.3.22 NPPF section 12 highlights the need for high quality, sustainable buildings with good design with particular regard to development's that are visually attractive as a result of good architecture, and sympathetic to local character. It goes further to state that development that is not well designed should be refused, especially where it fails to reflect local policies and government guidance on design.
- 8.3.23 The original building had a low-pitched roof with a ridge of approximately 7.19m and eaves 5.55m. Materials included simple windows with modest amounts of glazing and panels beneath the windows, overall presenting an unremarkable visual appearance.
- 8.3.24 The current building has a high-pitched roof with a ridge of approximately 10.39m and eaves 6.40m which contain 12 downlights along the front elevation. Materials includes extensive stone walls, and large sections of glazing including full height glazing/ patio doors. Due to the raising of the eaves and the roof it is now essentially a three-storey building. The current building is approximately 13.4m wide, 8.36m depth, and will be approximately 10.39m tall to the ridge, or 6.40m to the eaves along the main/front elevation.
- 8.3.25 In terms of visual impact, the current three-storey building is substantial in scale further supported by the Urban Design Statement (by DLP). Surrounding buildings within this rural area are almost entirely bungalows and two storey dwellings, none of which have a significant increase in roof height or slope. Additionally, the siting of the building is elevated on a hillside on a highly prominent position visible from significant views across the valley.
- 8.3.26 The external walls of the original building were constructed of brick, with basic windows and panels beneath. The current building comprises stonework (with some ornamentation) that is generally complimentary to the character of the area. In terms of visual appearance of the external walls alone, it is considered that on balance there is a visual improvement in the external appearance of the walls.
- 8.3.27 Overall, the current building is considered to have a significant, harmful impact on the character and appearance of the property and the surrounding area. The development is therefore considered to be not in accordance with Policies EQ2, and EQ6 of the High Peak Local Plan, the guidance contained within the Residential Design SPD, High Peak Design Guide, and Section 12 or 15 of the National Planning Policy Framework.

Impact on Residential Amenity

- 8.3.28 Policy EQ 6 'Design & Place Making' requires that development should achieve a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.
- 8.3.29 In terms of overlooking and privacy the building is elevated on the hillside and there is a substantial separation distance of 30-35m from the front elevation and the PROW down below.

- 8.3.30 The overall scale of the building is relatively large (particularly the height), compounded by its location elevated on a hillside, although located away from the closest neighbouring residential properties to the south-east.
- 8.3.31 In terms of residential amenity on balance the proposal is therefore considered unlikely to have a significant, harmful impact on the amenity of the neighbouring properties.

Conclusion

- 8.3.32 In consideration of the above, it is considered that the current building is unacceptable in terms of the design and scale of this development. As such, the development fails to accord with the relevant policies contained in the High Peak Local Plan and associated SPD guidance. As such the development is recommended for refusal and the dismissal of the ground (a) appeal.

8.4 Issue Seven: Whether the steps required to be taken by the notice exceed what is necessary to remedy the breach of planning control, or as the case may be, the injury to amenity. This is pertinent to the ground (f) appeal on Appeal A.

- 8.4.1 The appellant submitted a Ground (f) appeal Proposition 4 - that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach (Ground F).
- 8.4.2 The Council's view is that the required steps are relevant, reasonable, and realistic with reference to the Adopted Local Plan policies and associated SPD guidance. The purpose of the approach is to ensure that any harm caused by the unapproved development is mitigated to a satisfactory level.
- 8.4.3 The Enforcement Notice (**CD5.1**) states that the applicant should restore the land to its condition before the breach took place by completing three specific steps mitigation.
- 8.4.4 **One:** Lowering the overall height and pitch of roof to the classroom block to that shown on images EN04 and EN05 (as provided with the Enforcement Notice). This will directly reduce the impact of the development on the surrounding area particularly due to the elevated position on the hillside within the Valley Pastures Area as mentioned in Para 8.3.16 above. This will also meet requirements of the Council's Design Guide SPD 2018.
- 8.4.5 **Two:** Remove three dormer windows on the eastern roof slope and replace with roof tiles to match the existing roof. This will return the appearance of the building as it was originally seen from the PROW, Beech Rise, Linglongs Avenue, and from across the valley. This will meet requirements of the Council's Residential Design Guide SPD 2005.
- 8.4.6 **Three:** Remove the east facing ground and first floor windows and replace with windows of the size, height and position as shown in EN05. This will mitigate against the extensive glazing that dominates the main/ east elevation as seen from the PROW, Beech Rise, and Linglongs Avenue.

8.4.7 The Council considers that the proposed mitigation will satisfactorily mitigate the harm caused, alongside ensuring that the planning system is seen to be properly backed up by an effective enforcement system.

8.4.8 During the site visit conducted on 23/09/2022 observations were made as to whether there was any mitigation by the applicant in response to the three requirements put forward by the Council's Enforcement Notice. However, it was evident that no improvements or mitigation has taken place.

Conclusion

8.4.9 The mitigation steps required by the Council are relevant, reasonable, and realistic. However, there is no evidence that any mitigating works has yet taken place.

8.5 Issue Eight: Whether the time for compliance is reasonable.

This is pertinent to the ground (g) appeal on Appeal A. The appellant submitted a Ground (g) appeal Proposition 5 - The time given to comply with the notice (6 months) is too short (Ground G).

Conclusion

8.5.2 Agreed, the Council concedes that increasing the time to comply with the notice from 6 months to 12 months is acceptable for the reasons given in the appellant's statement.

9.0 Summary and Conclusions

- 9.1.1 This Proof of Evidence is prepared on behalf of High Peak District Council in response to the appellant's appeal against the Council's enforcement action which commenced on 31/03/2022.
- 9.1.2 The Council's position has been set out with regard to national planning policy, the Local Plan and associated Supplementary Planning Documents.
- 9.1.3 The Council considers that the works which has already taken place constitutes development and does require planning permission but there are no permitted development exceptions available to the appellant.
- 9.1.4 The last approved application for change of use was from an educational use to residential. No permission was granted for any physical alterations to the exterior of the building. It is not clear whether the approved change of use was ever lawfully implemented.
- 9.1.5 If the lawful use of the building is residential, then the appellant has exceeded the permitted developments as set out in the GPDO 2015.
- 9.1.6 If the lawful use of the building is non-residential then there is no permitted development allowance for the works.
- 9.1.7 The works are not a simple conversion but include substantial material alterations to the external appearance of the building, which do not amount to permitted development.
- 9.1.8 External changes include raising of the roof, an increase in roof slope, three dormer windows on the front elevation (second floor), three rooflights on the rear elevation roof slope, new external walls with an outer skin doubled in thickness constructed with stonework, new windows on all four elevations, a small rear porch extension, and ongoing building work on the north elevation including exposed breezeblocks, steel lintel, and openings.
- 9.1.9 The works have a detrimental impact on the character of the site and the surrounding area, contrary to Local Plan Policies EQ2, EQ3 and EQ6 and local supplementary planning document's. In the event that a planning application was submitted to formalise the building works, planning permission would be refused.
- 9.1.10 Building work is still ongoing as recently as 23/09/2022.
- 9.1.11 The appellant has stated that the time taken to comply with the notice at 6 months is too short, and the Council concedes that the appellants request for 12 months would be acceptable.
- 9.1.12 It is therefore concluded that the appeal should be dismissed subject to the variation of the enforcement notice to allow 12 months for compliance.

10.0 Glossary

CD	Core Document
DAA	Design & Access
EQ	Environmental Quality
GPDO	General Permitted Development Order
PoE	Proof of Evidence
PD	Permitted Development
SoCG	Statement of Common Ground
UK	United Kingdom

Appendix A: Chronology of the Classroom Block “Conversion”

October 2022

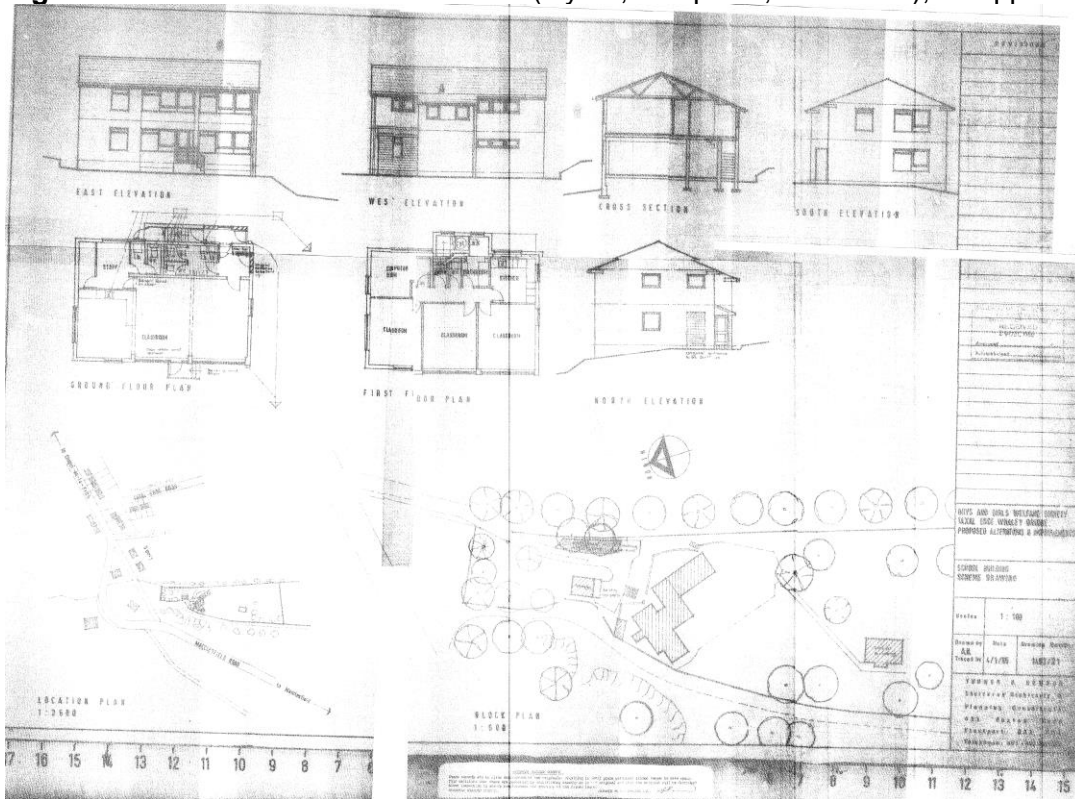
HPE/2019/0014 (Appeal A)

Fig 1 – Site plan provided with enforcement notice HPE/2019/00014



Planning Application HPK/0002/5081 - Additional car parking provision adjacent to main driveway at Macclesfield Road (Taxal Edge), Whaley Bridge – granted planning permission with conditions 6th April 1987

Fig 2 – Plans show the classroom block (layout, floorplans, elevations), as approved in 1987



Planning Application HPK/2009/0689 - 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 – granted planning permission with conditions 29th March 2010

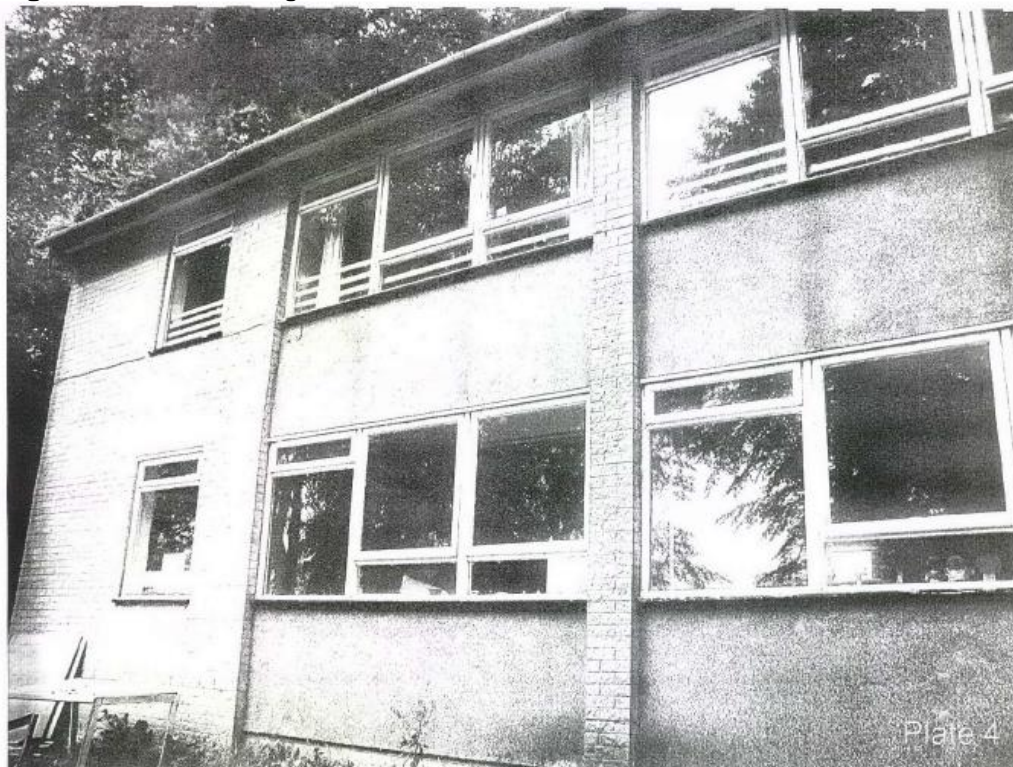
Fig 3 – Design & Access Statement extracts received 2nd February 2010

The **Detached Teaching Block** was constructed during the 1970's and is of unremarkable appearance but is of substantial construction. (see **Plates 4 and 4a**). The building is easily capable of conversion to a 5 bedroom house (see **Dwg. No. 09/358/06**) as it stands without any need for external alteration.

Appearance : With the exception of the demolition of the gymnasium and first floor timber clad extensions to Taxal Edge, the external appearance of the buildings will remain largely unaffected since the proposals concern the internal re-arrangement of the buildings using, in the case of Taxal Edge and the Detached Teaching Block the existing stairwells and fire escapes to comply with all the necessary internal access and fire regulations specified in the Building Regulations. There will be design improvements to the external fire escape stairs to modify the utilitarian appearance of these structures. Clearly there will also be external repair and maintenance works to restore the buildings to a more pristine appearance. Repairs will also be made, as necessary, to the existing metalled surface of the parking areas and of the access roads.

“External repair and maintenance works to restore to the building to a more pristine appearance”.

Fig 4 / Plate 4 showing the front elevation of the Classroom Block in 2009



Counting of standard size bricks can help provide an estimate of the height of the front elevation. Fig 4 shows 74 bricks measuring 75mm (brick height + mortar) which suggests the height of the eaves is 5.55m.

Fig 5 - Plate 4a showing the rear elevation of the Classroom Block in 2009

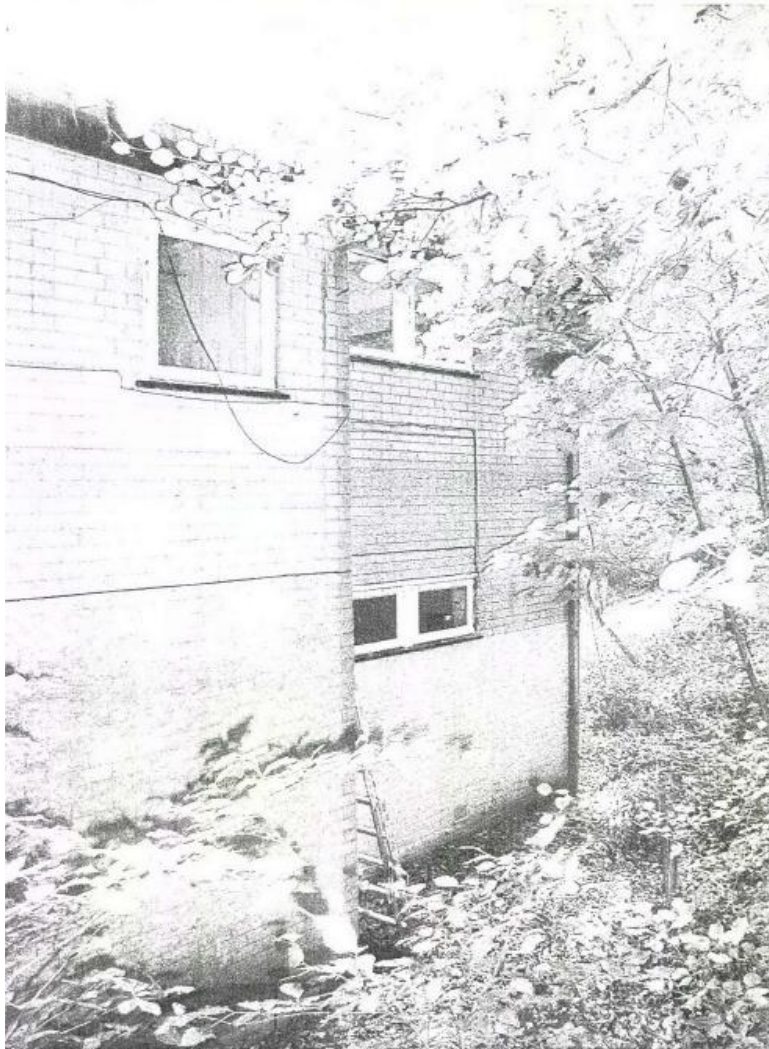


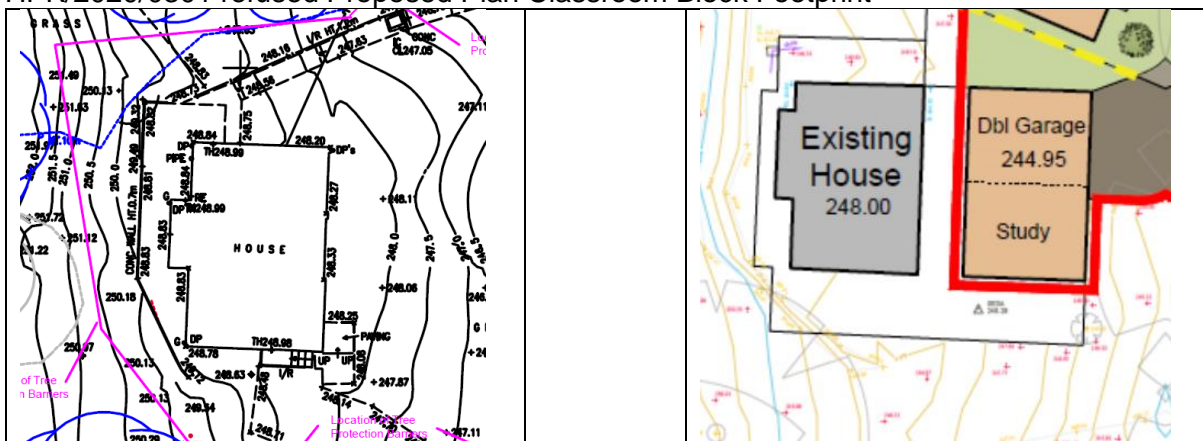
Plate 4a

Fig 6 - Conversion of Classroom 'Approved' Proposed Floor Plans as approved in HPK/2009/0689



There are no other approved or existing plans for the classroom block after 2009. The floorplan shows the two storey rear projection, but no single storey rear projection.

Fig 7 - HPK/2009/0209 Tree Protection South Plan Classroom Block Footprint vs HPK/2020/0301 refused Proposed Plan Classroom Block Footprint



It should be noted the image for the existing house shows an incorrect footprint to the rear.

Fig 8 - Photographs of Classroom Block, from an Appraisal of Trees, September 2009



Fig 9 - Photographs of Classroom Block, from an Appraisal of Trees, September 2009



Fig 10 - HPBC Aerial Photo 2011



Fig 11 - Aerial Photo Google Earth 18/06/2017



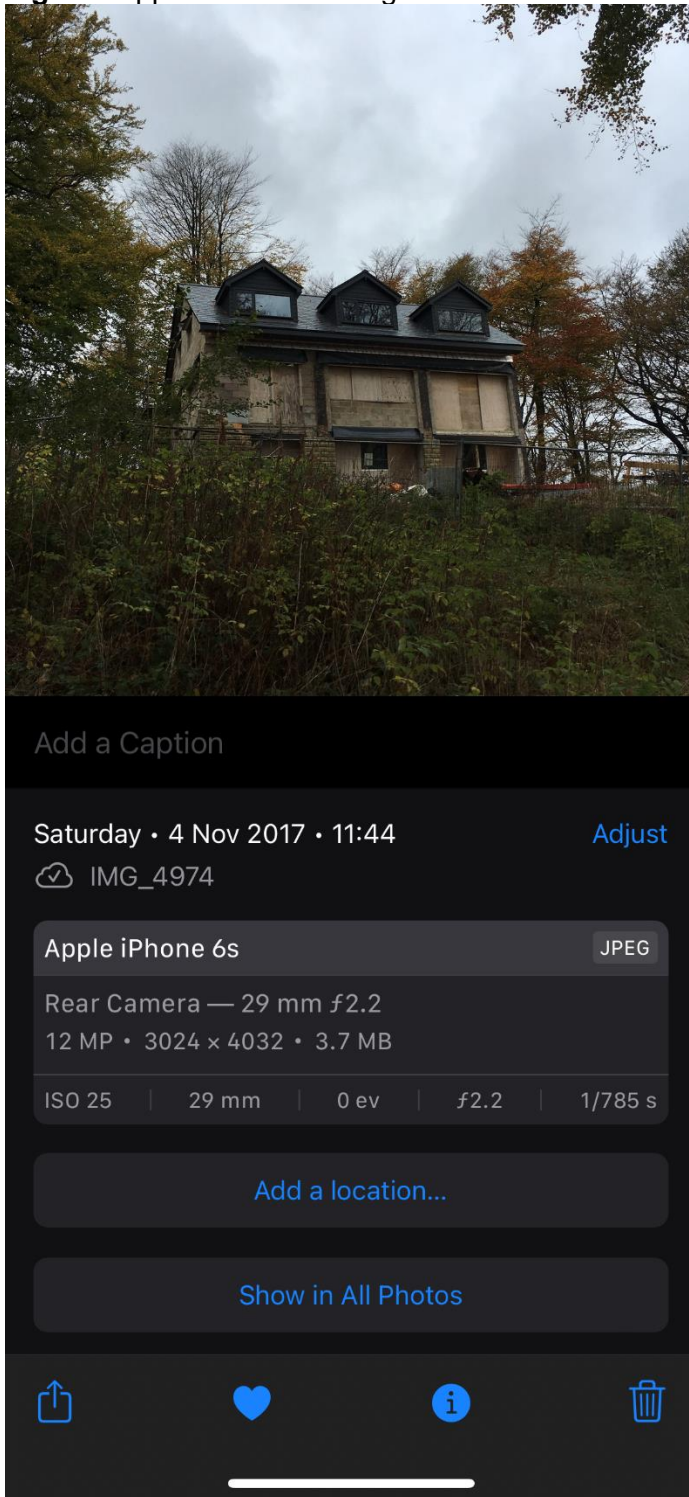
The image shows a significant amount of rubble/ building materials around the Classroom Block. Three rooflights have been inserted at the rear.

Fig 12 - Aerial Photo Google Earth 29/06/2018



The footprint/roof profile appears to have changed due in the shadow of the 2017 and 2018 image. Both images were taken at the same time of year and the alignment of the shadow suggests this was the same time of day. The shadow shape is different suggesting an unidentified structure or object at the rear. However, it is not clear whether this was an extension at the rear built after June 2017 but demolished by June 2018.

Fig 13 - Appellant JPEG Image 04/11/2017



Date unverified and metadata required. Notwithstanding this, it helpfully shows that the building work was still in progress. This photo shows the building under construction extensive building work in progress including exposed sections including part of the roof visible under the eaves, a long steel beam, wooden boards, steel beams, brick columns and steel columns, plus chipboard or plasterboard.

Fig 14 - Aerial Photo Google Earth 24/04/2020



The roof has clearly changed and now includes the three dormers. Additionally there is evidence of ongoing building work with vans/ rubble around the site.

Officer Site Visit Photographs, 4 Aug 2020

Fig 15 - The photo shows the current building in an unfinished condition with clearly exposed blockwork and lintel, 04/08/2020



Fig 16 - The photo shows the current building in an unfinished condition with clearly exposed blockwork and lintel, 04/08/2020



Officer Site Visit Photographs, 19 April 2021

Fig 17 - The photo shows the current building in an unfinished condition with clearly exposed blockwork and lintel, there is also large amounts of rubble on site, 19/04/2021



Officer Site Visit Photograph, 14 March 2022

Fig 18 – View of existing building under construction as seen from the PROW, 14/03/2022



The window openings do not appear to have been installed to the side elevation. Additionally there is no evidence of any curtains/ blinds/ interior furnishings. The appeal property is therefore unoccupied due to ongoing building works.

Site Visit Photographs 6 March 2022 (NB: Site labels apply to both appeal sites A + B)

Fig 19 - View of the current building as viewed from further along Linglongs Road close to the PROW at Lanehead Road (the two appeal sites are labelled), 06/03/2022



The current building, the subject of Appeal A, can be clearly seen on the skyline above the nearby housing with prominent dormer windows appearing out of character, which is further supported by the Landscape Statement.

Fig 20 - View of the current building as viewed from 730m south of the site from the PROW at Whaley Bridge (the two appeal sites are labelled), 06/03/2022



From this aspect the gable end of the current building is visible set amongst woodland.

Fig 21 - View of the current building as viewed from Shallcross Road (the two appeal sites are labelled), 06/03/2022



The current building, Appeal A, can be clearly seen dominant on the wooded ridge of Taxal Edge above the nearby housing with prominent dormer windows in a position that stands out above existing housing, which is further supported by the Landscape Statement.

Fig 22 - View of the current building as viewed from approx. 1.4km east northeast of the site along PROW Whaley Bridge FP46. (the two appeal sites are labelled), 06/03/2022



The current building, can be clearly seen on the skyline above the nearby housing with prominent dormer windows in a position that stands out above existing housing, which is further supported by the Landscape Statement.

Fig 23 - View of the current building as viewed from the junction of Buxton Road and B5470 approx. 875m east (the two appeal sites are labelled), 06/03/2022



The dormer windows of the current building can be seen above the trees and appear out of character with the other buildings in the view, which is further supported by the Landscape Statement.

Fig 24 - View of the current building as viewed from Buxton Road approx. 800m east (the two appeal sites are labelled), 06/03/2022



The current building stands dominant above and out of character with the built development below highlighted by the dormer windows and large amounts of glazing on the façade, which is further supported by the Landscape Statement.

NB. Figs 30-34 are also provided in the Landscape Statement provided by Derbyshire Land & Practice

Site Visit Photographs 23 Sept 2022

Fig 25 - The sole vehicular approach to the appeal property as viewed from the upper car park at the Edwardian house, 23/09/2022



Fig 26 - The north-east corner, 23/09/2022



Fig 27 - East elevation (facing the highway/ PROW), 23/09/2022



Fig 28 - South elevation (facing the largest section of the dwelling's curtilage), 23/09/2022



Fig 29 - The South-West corner, 23/09/2022



Fig 30 - West elevation (facing the rear slightly uphill towards forestry commission land), 23/09/2022



The photo shows a single storey extension to the rear that is not on the 2009 plans.

Fig 31 - North elevation facing the Edwardian house, 23/09/2022



There are large sections of unfinished building work (exposed breeze blocks, steel lintel (red), and additional breeze blocks in perpendicular layout

Fig 32 - North elevation, 23/09/2022



There is a large area of exposed breeze blocks, plus an exposed lintel (red) above the doorway together with clearly incomplete stonework leaving gaps in the external wall, plus additional breeze blocks partially built in a perpendicular position to that elevation. There are exposed breeze blocks with the erection of trellis fencing alongside the north elevation.

Fig 33 - View of the House from the PROW, 23/09/2022



The roof and three dormer windows are visible from the Public Highway as viewed from the upper section of the PROW (approximately to the rear of 6 Beech Rise).

Fig 34 - View of the House, 23/09/2022



View from the lower section of the PROW (approximately to the rear of 7 Beech Rise), view obstructed by temporary Heras construction fencing plus ivy overgrowth above the historic stone boundary wall.

Fig 35 - View of the House as viewed from Linglongs Avenue, 23/09/2022



Fig 36 - View of the House as viewed from Linglongs Avenue, 23/09/2022



The current building has a dominant position on the hillside overlooking Linglongs Avenue, with this impact even further accentuated in winter.

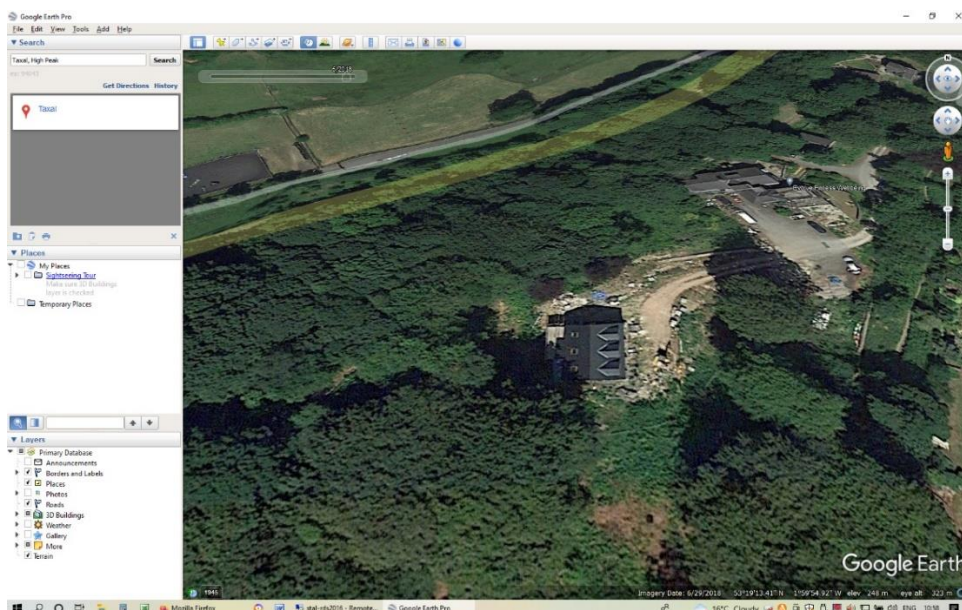
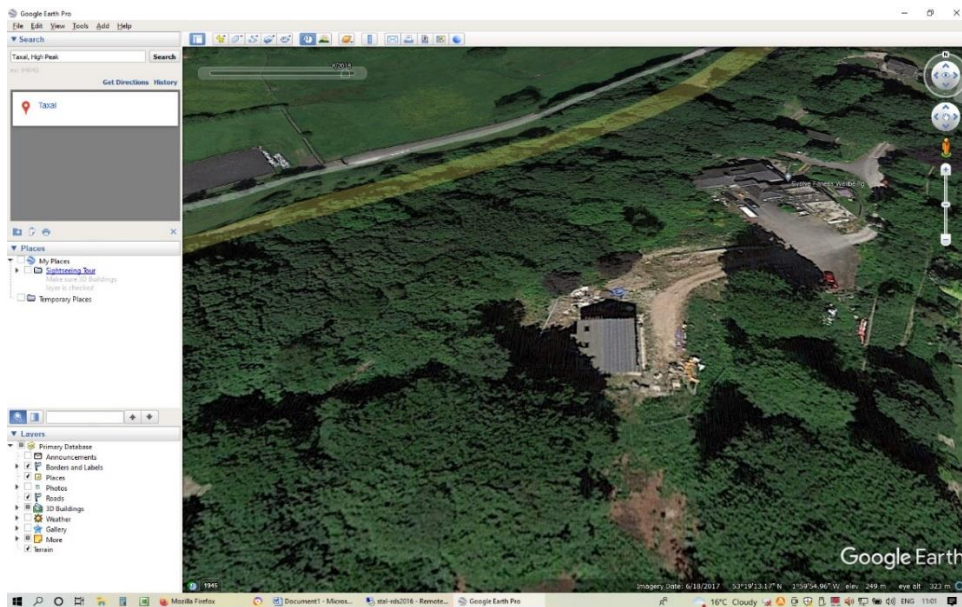
Appendix B – Google Earth Images
October 2022
HPE/2019/0014 (Appeal A)

This note covers a discrepancy in the earlier stages of the Inquiry process regarding a difference on Google images between the date on the top bar and the date the image was actually taken, see helpful link from google as to dates.

<https://support.google.com/earth/answer/6327779?hl=en#zippy=%2Csatellite-aerial-images%2Chistorical-images>

Attached are 2 images taken off google earth. The first image shows the roof without dormers. Where confusion occurred is that the bar at the top left shows the image as being April 2018. The exact date the photo was taken is on 18/06/2017.

The second image that shows dormers in place is labelled in the top left corner as June 2018. However the correct date of the image appears on the bottom line as 29/06/2018.



PoE Appendix C: Estimated Measurements
 Oct-22
 HPE/2019/0014 (Appeal A)

MEASUREMENTS

VARIABLE	
Bricks+ mortar (count)	74
Bricks+ mortar (height)	0.075 m

ORIGINAL	brick count	A2 conv	measured c	1.414
Ridge height		7.19 m	5.7 cm on A2	
Eaves (main elevation)	5.55	5.55 m	4.4 cm on A2	
Width		11.79 m	9.35 cm on A2	
Depth (excl. proj)		7.95 m	6.3 cm on A2	
Rear projection		1.14 m	0.9 cm on A2	
Rear projection width		3.91 m	3.1 cm on A3	

Eaves are used to calculate the ratio for the original building

1.2614

CURRENT			measured on printed photo
Ridge height		10.39 m	16.40 cm on photo
Eaves (main elevation)		6.40 m	10.10 cm on photo
Width		12.21 m	cm on photo
Depth (excl. proj)		8.36 m	13.20 cm on photo
Rear projection		1.33 m	2.10 cm on photo
Patio door window		2.09 m	3.30

Patio door window is used to calculate the ratio for the existing building

0.6333

Difference in depth is applied to the existing width.

0.41

CHANGE	
Pitch	3.20 m
Eaves (main elevation)	0.85 m
Width	0.41 m
Depth (excl. proj)	0.41 m
Rear projection	0.19 m

Standard brick size	
height	65.0 mm
width	102.5 mm
length	215.0 mm
mortar	10.0 mm

VOLUME

ORIGINAL			
Ridge height	7.19		
Width	11.79		
Depth (excl. proj)	7.95	153.68	76.84 cubic m
Total roof volume			76.84 cubic m

CURRENT			
Ridge height	10.39		
Width	12.21		
Depth (excl. proj)	8.36	407.19	203.59 cubic m
Extra roof volume due to raising eaves			86.40 cubic m
Total roof volume			290.00 cubic m

CHANGE	
Total increase in roof volume	213.16 cubic m

Comparison size of a small house 6m x 6m x 6m 216 cubic m

- Raw data
- Calculated from brick count
- Estimated from side elevation photo
- Estimated from A2 plan
- Original width + difference in elevation depth

METHODOLOGY

1. Use the 2009 photo of the original building East elevation to count the number of standard size bricks.
2. Apply a standard size to the bricks (65mm) + mortar (10mm) to calculate the height of the original eaves.
3. Use this measurement to calculate the other dimensions on the microfiche plans, including the height of the ridge and eaves.
4. Use the 2020 photograph of the existing building North elevation to measure the height of the patio door/ full height window at first floor.
5. Apply a standard size to the patio door (2.09m).
6. Use this measurement to calculate the other dimensions on the North elevation including the height of the ridge and eaves.
7. Thickness of the walls is calculated by subtracting the original north elevation from the existing north elevation and applying the difference to the existing main elevation.
8. Calculate the difference between the original and existing to get the increase in roof volume.