



Project: 19-429 & 22-166

Site Address: Taxal Edge, Macclesfield Road, Whaley Bridge, SK23 7DR

Client/Appellant: Treville Properties Ltd and Gary Cullen

Date: 20 October 2022
Author: Rawdon Gascoigne

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# 1. Introduction

## Qualifications

- 1.1 I am Rawdon Edward William Gascoigne. I have a Bachelor of Arts with Honours in the subject of Town and Country Planning, from the University of Newcastle-upon-Tyne. I am a Chartered Town Planner with over 30 years' experience in local government and private practice, 10 of which were as a senior planning officer dealing with development control and enforcement matters for the Lake District and subsequently, Peak District National Park Authority which I left in 2002 to take up my current position.
- 1.2 I am a director in the firm of Emery Planning Partnership Limited (EPP), chartered town planners and development consultants, based in Macclesfield, Cheshire where I deal with a range of developments across the UK. This has included planning and enforcement matters covering a diverse range of development. I am therefore familiar with the tests applied in such cases.
- 1.3 The evidence which I have prepared and provide for these appeals (references: APP/H1033/W/21/3272745 & APP/H1033/C/22/3297854) is true and has been prepared and given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinion.
- 1.4 I am instructed by the appellants in these cases and am familiar with the sites and the details of the cases.

# Background

1.5 My Proof of Evidence relates to two appeals. The first appeal to be submitted, (Appeal B) is a S78 appeal submitted by Treville Properties Ltd. against the refusal of High Peak Borough Council to grant planning permission for the demolition of the existing building known as "Taxal Edge" and the associated detached garage building, and the erection of 4 no. semi-detached and 3 no. detached dwellings (appeal reference APP/H1033/W/21/3272745). The second appeal to be submitted (Appeal A) is an appeal against Enforcement Notice reference HPE/2019/00014, which relates to alleged unauthorised changes to the roof and fenestration of a dwelling referred to in this Proof of Evidence as 'the classroom conversion', which is situated immediately to the

Southwest of the appeal site for the S78 appeal (appeal reference APP/H1033/C/22/3297854). The enforcement appeal is made by Mr Gary Cullen.

- 1.6 Notwithstanding the different appellants, the two appeals are inextricably related to each other for the following reasons:
  - Treville Properties Ltd. is owned by Mr Cullen's family.
  - The application site for Appeal B overlaps the land that is privately owned by Mr Cullen and the development proposed under application reference HPK/2020/0301 (the subject of the S78 appeal), includes the erection of a detached garage to serve the classroom conversion where Mr Cullen lives.
  - As noted above, Appeal B was lodged on 4 April 2022 and was originally listed for determination via the hearing procedure. However shortly after the hearing opened, the Inspector determined that the case was not suitable to be dealt with via that procedure and concluded that a public inquiry was needed to consider evidence relating to the baseline and fallback position at the site. This evidence included late documents introduced by the LPA on the day of the hearing, through which it queried the lawfulness of the classroom conversion immediately to the Southwest of the site boundary for the Section 78 appeal. The LPA's subsequent Enforcement Investigation of the classroom conversion was therefore parasitic on the S78 appeal. Although the LPA had previously queried the lawfulness of the classroom conversion when considering application reference HPK/2020/0301 in 2020, it did not consider it expedient to undertake a formal investigation; to verify details of works undertaken with the landowner; or to pursue action, until advised to consider this by Counsel in connection with the S78 appeal. A site visit to establish what works had been carried out was not undertaken by the LPA until 4th May 2022. Copies of correspondence confirming this are attached at Appendix EP1 of my Proof of Evidence, (email from LPA officer Jane Colley to Andy Thomas dated 22 March 2022). This was obtained as a result of a Freedom of Information request made by Samantha Cullen.
- 1.7 The detailed background to both of the appeals is set out in the Statements of Case at Section 2 of CD4.3 and in CD5.3, with a summary provided in Section 2 of my Proof of Evidence below.

# 2. The appeals

2.1 Although the enforcement appeal is dealt with first within my evidence, this is due to its relevance in terms of the context and setting for the development proposed under planning application reference HPK/2020/0301. As noted above, the S78 appeal predated and instigated the enforcement investigations relating to the classroom conversion (and the subsequent Enforcement Notice and Appeal).

# The Enforcement Notice (Appeal A – reference APP/H1033/C/22/3297854)

2.2 Enforcement Notice reference HPE/2019/00014 was issued by High Peak Borough Council on 31 March 2022 following the close of the hearing for the above S78 Appeal. As outlined, the alleged breach of planning control is:

"Without planning permission, 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 the fenestration on the eastern elevation."

- 2.3 The classroom block is identified on Plan reference EN01 which accompanies the notice.
- 2.4 The LPA's reasons for issuing the notice indicate that the alleged changes to the building comprise building operations for the purposes of Section 55 (1A) of the Town and Country Planning Act and materially alter the external appearance of the building. It is asserted that the raising of the roof height, pitch of the roof and inclusion of dormer windows results in a dominant form of development which adversely harms the landscape setting of the site and wider area; and that the alterations to the fenestration on the East elevation with reference to the window openings, fails to respond to and reflect the character of surrounding development, to the detriment of visual appearance of the building in the landscape. No part of the Enforcement Notice specifies the extent to which the LPA consider the roof height and pitch have been altered. The only Local Plan policies referred to by the council in their reasons for issuing the notice are EQ2 (Landscape Character), EQ3 (Rural Development) and EQ6 (Design and Placemaking).
- 2.5 The steps set out at Section 5 of the Notice require the appellant to lower the height and pitch of the roof to that shown on the drawings that accompanied the Notice; remove 3 dormer windows on the eastern roof slope and replace with roof tiles to match the existing roof; and remove the

- East ground and first floor windows and replace with windows of the size, height and position shown in ENO5. A period of 6 months is given for compliance with the requirements of the Notice.
- 2.6 The appellant lodged an appeal against the enforcement notice on 28 April 2022 under grounds A, C, D, F and G and the appeal was conjoined with the aforementioned S78 planning appeal (reference APP/H1033/W/21/3272745).

# **Propositions**

- 2.7 I set out the case for the appellant with reference to a number of propositions as outlined in the Statement of Case for the enforcement appeal. The propositions are as follows:
  - Proposition 1: That there has not been a breach of planning control (Ground C)
  - 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)
  - Proposition 3 That planning permission should be granted for the matters alleged in the notice (Ground A)
  - 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)
  - Proposition 5 that the time given to comply with the notice is too short (Ground G)
- 2.8 In addition to the above, I also consider that the notice is a nullity as the images at EN04 and EN05 (with which the Notice requires compliance) lack any scale or dimensions that would enable the appellant to understand how the roof should be altered and/or to be sure they undertake the work to the satisfaction of the LPA. The images also give rise to issues with enforceability as without specified measurements or dimensions for the required works, the LPA would not be able to check that the roof had been altered correctly. Dudley Bowers Amusements Enterprises Ltd v Secretary of State for the Environment (1986) 52 P. & C.R. 365 makes it clear that if a notice is ambiguous in stating what the recipient must do to comply, and that ambiguity is incapable of resolution, the notice will be a nullity. I consider this applies in this case and the Enforcement Notice should be quashed on this basis.

# Planning application reference HPK/2020/0301 (Appeal B – reference APP/H1033/W/21/3272745)

- 2.9 The appeal application was received by High Peak Borough Council on 24 July 2020. It sought planning permission for demolition of the existing building known as "Taxal Edge" and the associated detached garage building, and the erection of 4 no. semi-detached and 3 no. detached dwellings. All of the dwellings would be 2.5 storeys in height, each would have an integral garage and all except one of the properties would have 4 bedrooms (the remaining dwelling having six bedrooms).
- 2.10 Each house would be constructed of reclaimed natural gritstone facing, grey aluminium windows and a blue/grey natural slate roof.
- As noted above and detailed at Section 2 of CD4.3, there were significant delays in determination of the appeal application. The case officer placed the application on the agenda for the Development Control Committee in October 2020 and November 2020. However, determination of the application was deferred both times following submissions by the applicant's professional team which addressed the suggested reasons for refusal. After further delays in the decision making process, an appeal against non-determination was lodged. However, prior to validation of the appeal, the LPA made the decision to take the application to the Development Control Committee, where planning permission was refused for the development. Copies of the committee report for the April 2021 meeting can be found at CD3. Copies of additional written submissions made by Emery Planning in advance of that meeting are attached at Appendix EP2 of my evidence. Copies of the earlier agendas and reports to members of the Development Control Committee in relation to the application are attached at appendices 3 and 4 of my Proof of Evidence. These show that the LPA's position and conclusions on key planning matters changed considerably during the course of the application.
- 2.12 The decision notice can be found at CD3.4. It cites one reason for refusal which has multiple strands:

"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."

2.13 Article 35 (b) of the General Management Procedure Order 2015 requires authorities to state clearly and precisely their full reasons for refusal specifying all policies and proposals in the development plan which are relevant to the decision. The previously suggested reasons for refusal in relation to house type mix and arboricultural impacts do not appear on the decision notice. There can therefore be no dispute in relation to these matters.

# **Propositions**

2.14 I will set out the case for the appellant with reference to a number of propositions. These have been revised since the appellant's initial statement of case, as at the time the appeal was originally lodged, the LPA's final Committee report had not been written and the reasons for refusal of the application were not known, the appeal originally being submitted against non-determination. The propositions reflect those set out in the appellant's Statement of Case dated 27 July 2021.

### 2.15 The propositions are as follows:

- Proposition 1: There is no conflict with the Development Plan Policies referred to in the reason for refusal of the application and the proposal is specifically in accordance with policy H1 which seeks to deliver housing on the edge of the settlement.
- Proposition 2: The proposal would provide a good standard of amenity for future occupants and would accord with the requirements of the HPLP Policy EQ 6, the Council's 'Residential Design Guide' SPD and the National Planning Policy Framework.
- Proposition 3: There are extant planning permissions for residential development at the site that provide a fallback position which is highly relevant when considering the acceptability of the proposed development. The proposed development would cause no greater harm than the fallback and is preferable to the fallback in planning terms.
- Proposition 4: The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 8 of the Framework

 Proposition 5: There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 11of the Framework.

# 3. Site and area description

3.1 Site and area descriptions for both of the appeal sites are set out in the Statements of Case for the appellant at CD4.4 and in the Statement of Common Groundwith further detail within the Proof of Evidence of Mr Nic Folland (landscape witness for the appellant)

# 4. Relevant planning history

- 4.1 The relevant planning history for the appeal sites is detailed the appellant's Statements of Case and in the Statement of Common Ground. As set out in those documents, I consider that in the event the Section 78 appeal is dismissed, the appellant has the ability to fall back on the following extant planning permissions:
  - 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.
- 4.2 It should be noted that 5 no. apartments from the 2013 permission would be completed in place of the 7 no. apartments approved by HPK/2009/0689.
- 4.3 The LPA disputes that the asserted fallback exists. Its Statement of Case for Appeal A indicates that the LPA do not consider that HPK/2009/0689 was lawfully implemented:

"the Council will show that this consent has not been lawfully implemented, because some conditions precedent were not discharged, or if the appellant can show that those conditions were discharged, that the conversion that has in fact taken place was not in accord with that consent. This consent did not approve any external alterations to the classroom block. In the absence of any lawful conversion of the classroom to a dwelling permitted development rights do not apply (Town and Country Planning (General Permitted Development) (England) Order 2015 (SI 2015/596) as amended Articles 3(4) or 3(5) (a))."

4.4 I disagree with this assertion as outlined below:

### HPK/2009/0689

- 4.5 Planning permission reference HPK/2009/0689 included a number of pre-commencement conditions (conditions 2, 3, 4, 6, 7, 8 and 12). Condition 9 also required the closing of the existing access track to Macclesfield Road (adjacent to Brewood) prior to all other operations, save for the creation of a new access.
- 4.6 The application forms at CD9.3t and v confirm that applications were made to discharge all of these conditions. The decision letter at CD9.3u confirms that conditions 3, 4, 6 and 7 were



discharged and the application indicates that the details to satisfy condition 12 we the same as those for condition 7, which were deemed to be acceptable. While further actions were required in respect of conditions 8 and 9 in relation to highways matters, the LPA did not require the submission of additional details, as these were matters to be resolved with Derbyshire County Council Highways Department (the LPA confirmed that the proposed manner of closure of the access was acceptable). The Statutory Declaration of Mr Ray Butler at Appendix EP5 further confirms that his agent at the time advised that all conditions on HPK/2009/0689 had been discharged and work could commence. It states that:

"I was advised by the late Peter Dalton, that all conditions had been discharged and work could commence. As regards the access road to Taxal Edge planning condition, myself and my architect Mr P Dalton had a meeting with Mr Ian Turkington back in 2012 at the said address and discussed the matter in which Mr Turkington suggested that he would contact Mr Chris Allwood to get Derbyshire highways to carry out the work to address this condition, to which we agreed at a cost of around £100.00. I was advised by Mr Dalton that he had contacted Mr Turkington and been assured it was all underway. As for the condition blocking the side road from the garage, a fence was erected which was later inspected and approved by DCC. All correspondence in this matter was dealt with by my architect Mr P Dalton."

- 4.7 The letter from Ms Pleasant at CD9.3u confirms that notwithstanding the above, DCC through Mr Turkington had also conceded that the condition could be varied to require the highways works to be carried out prior to occupation, indicating that the condition is not a true conditions precedent that would have any impact on the ability to implement the permission or cast doubt on its lawful implementation.
- 4.8 The letter at CD9.3w confirms that although Condition 2 was not fully discharged, the development would not include any new joinery on the former classroom or the main buildings to be converted. Notwithstanding that Mr Butler recalls being advised that the condition in question was ultimately addressed to the satisfaction of the LPA (see Statutory Declaration of Mr Butler at Appendix EP5), given that the letter confirms that joinery details were only required in respect of the former garage building as no other external joinery was to be replaced, it is clear that this does not go to the heart of the overall consent and is not a true conditions precedent. Although in *Meisels v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1987 (Admin)* (CD8.6), a pre-commencement condition relating to building materials was found to go to the heart of the planning permission for the extension and conversion of two Victorian terraces, that case was different as the condition related to the materials to be used for

the entirety of the development as opposed to restricted details on a small element of the development. Paragraph 18 of the judgement states:

...when an authority has clearly made a condition requiring some further act before the commencement of work, there must be scope for saying that the intended function of the condition was to prevent the commencement of work (or render it unlawful) before the condition had been fulfilled. That will be the case if the condition 'goes to the heart of the planning permission': if it does, it is a condition going beyond the detail of a matter that is agreed in principle: it is, instead, something without which the authority would not be content to permit the development at all. It is this distinction which in my view underlies the difference between the admittedly widely-contrasting scenarios suggested by Sullivan J in Hart Aggregates at [65]: on the one hand where there is permission only in principle because there are no details at all, and on the other hand the case where the failure is limited to a single aspect of the development.

The question whether a condition "goes to the heart of the planning permission" is not merely a matter of construing the grant of permission. The grant may give reasons why the condition is imposed; but those reasons cannot resolve the question by themselves. Rather, the question can be answered only by a fact-sensitive enquiry into the terms of the condition in the context of the permission, and the permission in its planning context. In other words, this question is a matter of planning judgment..."

4.9 The relevant section of the Hart Aggregates judgement (Paragraph 67 at CD8.7), states:

"I believe that the statutory purpose is better served by drawing a distinction between those cases where there is only a permission in principle because no details whatsoever have been submitted, and those cases where the failure has been limited to a failure to obtain approval for one particular aspect of the development. In the former case, common sense suggests that the planning permission has not been implemented at all. In the latter case, common sense suggests that the planning permission has been implemented, but there has been a breach of condition which can be enforced against. I appreciate that these are two opposite ends of a spectrum. Each case will have to be considered upon its own particular facts, and the outcome may well depend upon the number and the significance of the conditions that have not been complied with."

4.10 With regard to the new joinery details for a small building that was to be converted as part of a much larger development, it is clear that the condition is restricted to one particular aspect of the development and that as per *Hammerton v London Underground Limited [2002] EWHC 2307 (Admin)* (CD8.8), it would be irrational to take enforcement action against a 9 dwelling scheme as a result of the condition not having been discharged in respect of the joinery details for a small

number of openings on a single dwelling, especially when the site is not within a Conservation Area and once complete, planning permission would not be needed to replace windows and doors.

4.11 As a result of the above, I conclude that planning permission reference HPK/2009/0689 was lawfully implemented through the conversion/change of use of the classroom building. Although the declaration of Mr Butler at Appendix EP5 indicates that the conversion took place and that he moved into the property prior to the pre-commencement conditions being discharged, this does not mean that the permission was not lawfully implemented. As confirmed in *Whitley & Sons v Secretary of State for Wales and Clwyd County Council* [1992] 3 PLR 72, where an application for approval of details is made within the time limits and approval is eventually given for those details, any development (or change of use) that has been undertaken prior to the approval of details and which accords with the the permission, can be taken to constitute implementation.

### HPK/2013/0503

4.12 A legal opinion by Hugh Richards dated 8 March 2022 was submitted by the LPA to the Planning Inspectorate in connection with Appeal B. It refers to the two planning permissions listed above. At paragraph 10, this states:

It would appear that the scheme permitted by HPK/2013/0503 was implemented by the demolition of the gymnasium.

- 4.13 Evidence has also been presented by the appellant, to show that the footings of the semidetached dwellings approved by the planning permission were built within the relevant timescales. Building regulations documents including the initial notice served to the Council in July 2016 from the approved inspector can be found at CD10.
- 4.14 Having confirmed that HPK/2013/0503 has been implemented, Mr Richard's written opinion considers whether both the 2013 and the 2010 planning permission can be relied upon together (i.e. whether the fall-back can include both the converted classroom / converted garage and the 2 new semi-detached houses on the gymnasium site).
- 4.15 At paragraph 8 of his opinion, Mr Richards refers to case law which confirms that,

"whilst a landowner can make multiple planning applications for the same piece of land which may be inconsistent with each other, once one of those permissions has been implemented, and development has been carried out



which makes it impossible to achieve development under another permission over the same piece of land, then that other permission is no longer valid."

- 4.16 He indicates that this is directly relevant to the case at hand as it would not simultaneously be possible to convert the main building at Taxal Edge into both 7 and 5 apartments. Notwithstanding this, I would draw a distinction here, as this is not a case where there were two competing permissions and the applicant had to choose which to implement. Elements of the development permitted under HPK/2009/0689 had already been commenced and/or completed prior to submission of HPK/2013/0503 and the applicant was simply seeking to amend the proposals for the central part of the site (in the area of the main building).
- 4.17 Indeed Mr Richards concedes that the courts left open the question as to whether earlier development completed lawfully under a previous permission remains permitted where a subsequent planning permission has been granted for a part of the site that has not yet been developed. At paragraph 11 of the opinion, Mr Richards states that,

The "conversion" of the former classroom block appears to be substantially complete... For the purpose of this appeal, the LPA accepts that any works lawfully carried out under permission HPK/2013/0503 in respect of the former classroom should be regarded as being part of the fallback.

4.18 It is assumed that the reference to the 2013 planning application in the above statement is an error and it was intended to read "HPK/2009/0689" (as the former classroom block fell outside of the red edge for application reference HPK/2013/0503). That being the case, Mr Richard's statement is not surprising, since the LPA expressly required the applicant for HPK/2013/0503 to exclude the classroom conversion and disused garage from the red edge on the basis that they were already authorised under another permission and did not need to be included. It should be stressed that the initial application for conversion of the main building to 5 apartments and for the erection of a pair of semi-detached dwellings at the site sought to vary permission reference HPK/2009/0689 and originally included the classroom conversion and garage conversion within the application. However, the LPA declined to validate the application until the applicant removed them and amended the red edge. A letter from their planning support team dated 9 September 2013 (Appendix EP6) states:

"Please can you confirm that your recent submission relating to the reduction in the number of apartments from 7 to 5 along with a proposed pair of semi detached houses in place of the gymnasium, only relates to the main building and attached gymnasium and does not include the dwellings proposed at either end of the site outlined in red.If works have already started relating to



HPK/2009/0689 for the conversion of the garage and classroom block to dwellings, the approved application has been implemented and therefore should not be included in the red outline on both the location and site plans you have submitted. Please could you amend the location plan and site plan to show only the building subject to this application, outlined in red and all other sites/properties owned by the applicant should be outlined in blue."

4.19 It is clear that the LPA were of the view that both the classroom conversion and garage conversion would continue to be permitted irrespective of any further permission that was granted for the central part of the site and the appellant should not be penalized for acting on the advice of the LPA. Notwithstanding this, even if Mr Richards assertion that the conversion of the disused garage can go no further is correct, this has little bearing on the appeals that are before the inspector, save that it would reduce the overall dwelling numbers associated with the fallback and increase the benefits associated with the appeal development in terms of boosting the supply of new homes. This is because irrespective of whether the conversion can be completed, the building itself is present on site and is lawful.

#### HPK/0002/5081

4.20 While the LPA have included documents relating to application reference HPK/0002/5081 within the Core Documents for the Inquiry, I do not consider this application to be of relevance to the appeals. The application was submitted in December 1986 and sought planning permission for additional car parking provision adjacent to main driveway of Taxal Edge. Given the subject matter of the application, it is unclear why the drawing at CD9.1(a) would have formed part of an application for car parking and I can only assume it has been incorrectly attached to that historic application file. The title on the drawing refers to "proposed alterations", with part of the title being illegible, but with no reference to parking. The year the drawing was completed is also illegible. Furthermore, the parking drawing at CD9.1(b) (which given the subject matter, I consider is more likely to be related to application reference HPK/0002/5081), does not include the title bar making it impossible to tell whether there are any commonalities at all between the drawings in terms of the dates or titles on the documents. Notwithstanding this, I also note that the plans and elevations at CD9.1(a) do not show the classroom building in the form that existed at the site prior to its occupation as a dwelling from 2010. For example, Photograph 6 in the tree survey by Neil Edmondson (CD9.3q) shows that there were no steps on the East elevation of the building in 2009 when application reference HPK/2009/0689 was submitted. Even if the drawings at CD9.1(a) were an accurate snapshot of the building at the time they were prepared (and irrespective of the reasons they were produced), it is unclear what other changes might have

been undertaken to the building in the 25+ years since the LPA suggest they were drawn. In light of this I do not consider that the drawings at CD9.1 can be relied upon to give an accurate indication of the form of the classroom conversion prior to any improvements and alterations that were undertaken by the owners after 2009 and on that basis they have limited relevance to the appeals under consideration.

# 5. Planning policy context

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, that is the High Peak Borough Local Plan (HPLP), which was adopted in 2016. The National Planning Policy Framework (the Framework) is also a material consideration in planning decisions.
- 5.2 The detailed planning policy context relevant to both appeals is set out in the appellant's earlier Statements of Case and also within the Statement of Common Ground. The relevance of key policies and other material considerations for both appeals is discussed later within my Proof of Evidence.

# 6. Appeal A - reference APP/H1033/C/22/3297854

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

- 6.1 Having reviewed the Enforcement Notice and the building to which the Notice relates, it is my professional opinion that some of the matters alleged in the Notice do not constitute a breach of planning control as they either do not involve material changes to the building, or else fall within the scope of permitted development rights under Schedule 2, Part 1 of the Town and Country Planning General Permitted Development England Order 2015 as amended. Although the LPA's Statement of Case for Appeal A suggests that the property does not benefit from permitted development rights by virtue of the planning permission for the conversion of the building to a dwelling (reference HPK/2009/0689) not having been lawfully implemented. I have addressed this in the planning history section above and have shown that the permission was implemented and that the use of the former classroom building as a dwelling is lawful. As a result, the dwelling benefits from normal householder permitted development rights.
- 6.2 The matters alleged in the Notice comprise three distinct elements:
  - i. The raising of the roof and steepness of the pitch of the roof
- 6.3 The former owner of the property has confirmed in a Statutory Declaration, that the steepness of the roof was increased (increasing the height of the property) after he moved into the dwelling. The works were done in order to create storage space within the roof.
- 6.4 I consider that raising the maximum height of the building through alterations to the pitch of the roof (or indeed any other means), would require planning permission, as B.1(b) of Schedule 2, Part 1 of the GPDO (2015) states that additions and alterations to the roof a dwelling house are not permitted where:

"any part of the dwellinghouse would, as a result of the works, exceed the height of the highest part of the existing roof"

6.5 Consequently, I do not consider that this element of the alleged breach of planning control is immune from enforcement under Ground C. However, I consider it is immune from enforcement due to the passage of time, as I will set out later in my evidence.



#### ii. the insertion of three dormer windows on the eastern roof slope

While the insertion of dormer windows would ordinarily fall within the scope of permitted development rights subject to compliance with the requirements of Class B of the GPDO (which I have reviewed and which I consider to be met in this case), there is an issue here, as the roof from which the dormer windows project was altered immediately prior to the insertion of the windows and as those alterations to the main roof required planning permission but did not benefit from it. In other words, at the time the dormers were created, they involved additions and alterations to an unauthorised roof. As a result of this, if the altered pitch and height of the roof is found to be unlawful and the appeal under Ground A fails, the dormer windows could not be retained as the reinstatement of the former roof slope would necessitate their removal. However, as noted above, I consider that both the changes to the height and pitch of the roof and the insertion of the dormer windows are immune from enforcement action due to the passage of time.

#### iii. Changes to the fenestration on the eastern elevation.

6.7 Part 4.2 of the Notice indicates that there have been:

"alterations to the fenestration on the Eastern elevation, comprising large window openings, with full height windows of varying sizes"

- As noted in the Statement of Case for the appellant and contrary to the LPA's assertions at part 4.2 of the Enforcement Notice, the appellant has not enlarged the window openings within the Eastern elevation of the building. The previously existing modular windows (including unglazed panels) were simply removed and new windows were inserted within the existing openings in the building's façade, which were not altered in size. The only exception to this was the southernmost first floor window on the East elevation, where there was previously not a modular window and where the opening was extended to floor level, to mirror the length of the opening on the northern bay of the East elevation.
- 6.9 I consider that the replacement windows did not materially affect the external appearance of the building as per section 55(2)(a) of the Town and Country Planning Act 1990, which states:
  - (2)The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—
    - (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—



(i)affect only the interior of the building, or

(ii)do not materially affect the external appearance of the building.

6.10 Notwithstanding this, even if the inspector disagrees and finds that the replacement of the windows involved operational development, I consider it would constitute permitted development under Part 1A of Schedule 2 of the General Permitted Development Order 2015 as the replacement of windows is an improvement or other alteration to a dwelling house which does not fall within any of the exceptions at A.1 of Part 1, Schedule 2. Condition A.3(a) indicates that in order to be permitted development, 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 dwelling house. Given that they are not required to be identical and given that the requirement relates to the existing dwelling house as a whole, I consider this requirement to be met.

6.11 Mr Cullen chose materials to match the colour of the roof of the property and completed dormer windows and in direct response from the LPA's advice that if the windows were replaced in the future, they would need to be either timber or powder coated aluminium. This is confirmed in the statutory declaration at Appendix EP7 and aligns with the decision letter for the application to discharge joinery details for the garage conversion under HPK/2009/0689 (CD9.3w), which states:

"I have no objections to the windows being double glazed but they should be simple flush timber casements. Given the style of the windows to the garage door openings and alternative to timber may be a colour coded powder coated aluminium frame."

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)

6.12 The relevant time limit for enforcement action in respect of operational development is 4 years from the date of the breach (section 171B(1) of the Town and Country Planning Act 1990 (as amended)). Below. I will show that the alleged breaches of planning control were substantially complete more than 4 years prior to the service of the Enforcement Notice and that as a result they are immune from enforcement action due to the passage of time. I address each part of the alleged breach of planning control in turn.

- 6.13 While the LPA suggest that each element of the breach of planning control should be bundled together, such that the 4 year period for immunity will not commence until the last of the individual/distinct alterations is substantially complete, I do not agree that this is the correct approach with reference to relevant legislation, appeal decisions and case law. I consider that the judgements the LPA rely on at paragraph 5.12 of their Statement of Case are not directly applicable in the current case as there are clear differences in the nature of the alleged breaches of planning control. In particular, the cases the LPA refer to were for single breaches of planning control, such that substantial completion of the works involved continuous operation. For example in the case of Ewen Developments Ltd v SoS & North Norfolk DC 6/2/80 a number of embankments were subject to enforcement action and it was held that a notice could require the removal of the whole, even though parts had been completed more than 4 years prior to the service of the notice. The distinction here is that the embankments were constructed for a single purpose and were therefore part of the same overall development. At Taxal Edge, the individual elements of the alleged breach were to achieve different purposes. Mr Butler has confirmed that he instructed the alterations to the pitch and height of the roof to enable the provision of storage space within the roof. These changes were made before Mr Cullen purchased the site. Mr Cullen's declaration confirms that he added the dormers to the property after Mr Butler's alterations to the pitch, to create more useable space.
- The replacement of the modular windows on the front elevation was done separately as the frames were rotten and I consider that if this is taken to be development (which I suggest it should not be), it is clearly a separate act of development, as it was an 'alteration' whereas the two elements of the works to the roof were extensions to the property to provide additional internal space. They were not component parts of the same operation. When considering this, it is important to note that at the time the alleged breaches of planning control took place, the former classroom conversion was already a dwelling that had been brought into use in accordance with planning permission reference HPK/2009/0689 some 6-7 years earlier. The works did not form part of the wider act of 'converting' the property or facilitating a change of use to a dwelling as that had already taken place/been completed. This distinguishes the case from *Worthy Fuel Injections Ltd v SoS 23/7/82*, which related to a single building that was constructed gradually, over the course of time, and from other appeal decisions which make it clear that where separate acts of development have been deemed to form part of the same development for enforcement purposes, it is because they serve a common purpose (see appeals reference T/APP/C/95/W1525/638372, APP/J4525/C/18/3210822 & 3210823 at CD7.2 and CD7.3).

6.15 In light of the above, I consider that in the event that one element of the alleged breach of planning control is found not to be lawful due to the passage of time, it would be open to the inspector to conclude that the other works referred to at Part 3 of the Notice are immune from enforcement action. At the very least, there can be no doubt that all works to the roof and dormer windows were complete in excess of 4 years prior to the service of the Notice as outlined below.

#### i. Alterations to the roof and the insertion of dormer windows

6.16 The alterations to the pitch and height of the roof were undertaken prior to the appellant purchasing the property. As set out in the declarations at Appendix EP5 and 7. This took place in 2016 and the appellant later set about adding dormer windows. A quote was obtained for the glazing panels for the windows on 22 September 2017 (this is included at Appendix EP9 of my Proof of Evidence) and the windows were installed at the beginning of November 2017. The image below shows a photograph (complete with image capture details), which confirms that the roof and dormer windows were substantially complete in the form they exist today, on 4 November 2017.

Figure 1: Photo of East elevation dated 4 November 2017



5.8 In relation to this image (which was issued to the LPA after the service of the Enforcement Notice), the LPA's Statement of Case confirms that:

"The photograph shows the works to the roof, including the raising of its overall height and pitch of roof and the insertion of three dormer windows which look as though they may have been substantially completed by this date..."

6.17 The LPA's Statement of Case goes on to accept that the aerial imagery from Google Earth that was relied upon by the LPA when considering potential enforcement action, was not accurately dated and that the roof and dormers are shown as being substantially complete on a Google Earth photograph dated 29 June 2018. The only available aerial image prior to this is dated 17 June 2017, which shows that the final roof covering and dormers were not present. Therefore the aerial imagery confirms that the works to the roof and dormer windows were completed between June 2017 and June 2018. This is consistent with the appellant's account of events, with the dated photograph at figure 1, with the quote at Appendix EP9 and with the statutory declarations at Appendices 5 and 7. In the absence of any evidence which contradicts Mr Cullen's account of the timeline for the works, I consider that on the balance of probability, the changes to the pitch and height of the roof and the works to create dormer windows were complete by 4 November 2017 and are immune from enforcement action.

Figure 2: Google Earth image dated 29 June 2022



Figure 3: Google Earth image dated 18 June 2017



## ii. Changes to the fenestration on the eastern elevation.

6.18 The photograph at figure 1 shows that replacement glazing had not been inserted within the window openings on the East elevation by 4 November 2017. Mr Cullen's Statutory declaration (Appendix EP7) confirms that a quote was obtained for the windows at ground and first floor level immediately after the works to the roof and dormers had been completed. A copy of the quote is included as an exhibit to his declaration and is dated 24 November 2017. Mr Cullen's declaration advises that after the main windows were ordered, there was a delay with the windows such that the boarding within the openings remained in situ longer than planned. I am unable to confirm the precise date the windows were installed, but am advised it was around mid-late 2019.

# Proposition 3 – That planning permission should be granted for the matters alleged in the notice (Ground A)

6.19 In the event that the appeals under grounds C and D are either wholly, or partly unsuccessful, I consider that the matters which constitute the alleged breach of planning control accord with the Development Plan, with National Planning Policy and with relevant local and national design guidance. Planning permission should therefore be granted for what is alleged in the Notice in accordance with the presumption in favour of sustainable development at paragraph 11 (c) of the Framework.

6.20 However, even in the event that some conflict is identified with the Development Plan and/or other policy considerations (I consider there is none), I will show that following reinstatement of the roof in accordance with the requirements of the Notice, the appellant would be able to utilise permitted development rights to build an alternate form of dormer window, in order to recreate storage space within the roof of the dwelling. This would be more harmful than the existing unauthorised additions to the roof in terms of character and design and I will show that this is a material consideration which weighs in favour of granting planning permission.

### Details of the works undertaken to the property (the alleged breach of planning control)

- 6.21 The enforcement notice alleges 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 the fenestration on the eastern elevation.
- 6.22 There is no appeal under Ground B and no suggestion that the matters alleged in the notice have not occurred. The original roof of the building was removed and replaced with a slate roof incorporating three rooflights to the rear and three dormer windows to the front. The gradient of the roof was increased resulting in a higher ridge height. I have reviewed photographs of the building prior to the works and have reviewed scale drawings prepared by the appellant's architect, which show a cross section of the existing building. However, I have not been provided with scale drawings that show the previous height of the building.
- As noted at Section 4 of my Proof of Evidence, although the LPA have produced drawings of the classroom building which they suggest were submitted in connection with application reference HPK/0002/5081, they are not to a specified scale and the details shown on the building do not reflect the appearance of the building prior to the alleged breach of planning control. They also have no relevance to the subject matter of the planning application to which the LPA suggest they relate. As a result, I am not satisfied that the drawings are accurate and I consider that they cannot be relied upon for the purposes of this appeal. I am therefore unable to provide an accurate measurement for the increase in the height of the building. As noted above, my assessment of the changes to the property is based on photographs of the former classroom from before and during the works (e.g. exhibit B to the Statutory Declaration of Mr Cullen at Appendix EP7 of my Proof of Evidence and Figure 4 of this Proof of Evidence) and my own observations through visiting the site at various times of year in connection with application reference HPK/2020/0301 and to assist in preparation of the current appeals.

6.24 In terms of the changes to the fenestration on the East (front) elevation of the dwelling, this involved the removal of painted timber windows (which included modular units with solid panels between the glazing) and replacement with grey powder coated aluminium frames to match the dormer windows in the roof and tie in with the colour of the slate. The southernmost first floor window was altered to reflect and balance the verticality of the opening on the northernmost bay of the East elevation and the stone cladding was completed around the new windows. The cladding of the building does not form part of the alleged breach of planning control.

## Planning considerations

6.25 The development plan comprises the High Peak Borough Local Plan 2016 (HBLP). Paragraph 4.2 of the Enforcement Notice indicates that the alterations to the building would fail to comply with Local Plan Policies EQ2, EQ3 and EQ6 for the following reasons:

"...due to the adverse impact on the landscape and poor design. The raising of the roof height, pitch of the roof and inclusion of dormer windows results in a dominant form of development which adversely harms the landscape setting of the site and wider area. Moreover, the alterations to the fenestration on the Eastern elevation, comprising large window openings with full height windows of varying sizes fails to respond to and reflect the character of surrounding development, to the detriment of visual appearance of the building in the landscape."

### Local Plan Policy EQ2

- 6.26 Policy EQ2 relates to Landscape Character. Although the extent of the changes to the classroom conversion does not warrant a formal landscape impact assessment, the works have been considered by Nic Folland of Barnes Walker, who has undertaken a landscape assessment in connection with application reference HPK/2020/0301 as relevant to the determination of the S78 appeal. I refer to his key findings in my own assessment below.
- 6.27 Policy EQ2 states that the council will seek to protect, enhance and restore the landscape character of the Plan area for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the Plan Area. It indicates that this will be achieved by:

Requiring that development has particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, such as trees and woodlands, hedgerows, walls, streams, ponds, rivers, ecological networks or other topographical features.

6.28 As the development is restricted to alterations to an existing building, it would not impact existing natural or manmade features within the landscape save for the building itself. The original building was of modern construction and non-vernacular design. In that sense, it offered no particular aesthetic contribution to the landscape and I consider that the works to the property have gone some way to enhancing the character and appearance of the building by introducing more traditional features, including a steeper pitched roof. The dormer windows reinterpret some of the dormer details from the main house at Taxal Edge and the replacement of the modular windows creates a more domestic character, as opposed to the dwelling having the appearance of a school building (in the circumstances and given the unsavoury history of the site, I do not consider there is any benefit in seeking to preserve the appearance of a school or institutional building).

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.

- 6.29 Mr Folland comments on the landscape character areas in detail within his Proof of Evidence and advises that the site (together with the majority of Whaley Bridge) is located within the "Settled Valley Pastures" Character Area, as shown on the map on page 12 of the Landscape Character Supplementary Planning Document (adopted March 2006). He notes that the SPD's description of the Character Area and the resulting guidance on development, is of limited relevance to the built-up area of Whaley Bridge, as it relates to built form in rural areas, rather than built form in settlements. Page 5 of the Landscape Character SPD confirms this, stating that the guidance in the document relates "solely" to rural areas and that the Residential Design Guide (SPD 2) addresses design in urban areas.
- 6.30 At paragraph 6.40 of his Proof of Evidence, Mr Folland indicates that although the converted classroom property is partially visible from the public footpath to the East of the site, the changes associated with the roof height, roof pitch angle, dormer windows and changes to East facing fenestrations do not adversely affect the views experienced from this footpath. He confirms that in his professional opinion:

"the Section 78 appeal proposals and the converted classroom property associated with the Ground A Appeal are well related to the existing pattern of development and surrounding land uses and are of an appropriate scale for this aspect of Whaley Bridge. Furthermore, I consider the proposed scheme, along with the converted classroom property to constitute good design that accords with many aspects of HPBC's Residential Design Guide SPD 2 and thus



# represents an appropriate design response to the appeal site's defining characteristics and its landscape/townscape setting."

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

6.31 The development comprises alterations to an existing building that was not previously in keeping with the local vernacular. Each of the individual changes to the property has been undertaken in such a way as to improve the appearance of the building in the local landscape. However, the topography of the site and surrounding area, together with the woodland setting, restricts views of the development from the wider area and where view are available, the limited extent of the changes to the building means there is no significant change to the view and no change to the landscape setting of the Peak District National Park. The landscape Proof of Evidence of Mr Folland provides further detail on the visibility of the Classroom Conversion from various locations. There is no suggestion from the LPA that the development is harmful to the setting or purposes of the National Park and no comments on the appeal have been received from the Peak District National Park Authority.

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.

- 6.32 The proposals offer a small enhancement to the character and appearance of the area when compared with the building as it existed prior to the alleged breach of planning control. The scale and nature of the changes to the building and the location of the building in relation to other, larger buildings at Taxal Edge means that the development has no significant impact on the wider landscape setting of the settlement of Whaley Bridge and would continue to be appropriate in the context of the development proposed under application reference HPK/2020/0301, as confirmed my Mr Folland at paragraph 6.40 of his Proof of Evidence.
- 6.33 I consider that the alterations to the classroom conversion accord with the requirements of Local Plan Policy EQ2

#### Local Plan Policy EQ3

6.34 Policy EQ 3 relates to rural development outside the settlement boundaries. It indicates that within the rural area, the Council will seek to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness. This will be achieved through a number of measures. None of these are relevant to the appeal development save for the final bullet point, which indicates that the Council will ensure that all development is of a high quality design and protects or enhances landscape character and the setting of the Peak District National Park. This requirement effectively replicates elements of EQ2, which I have addressed above.



6.35 The second part of the policy lists a number of forms of residential development that will be allowed. This includes:

"Extensions to existing dwellings provided they are subsidiary to the building and do not have an adverse impact on the character of the landscape."

- 6.36 I consider that the alterations to the roof of the property amount to a small vertical extension which appears subsidiary to the building and which has not fundamentally altered the proportions of the building. The general form and footprint of the building is unaltered by the alleged breach of planning control and the colours, materials and recessed nature of the roof and ridgeline in comparison with the façade of the building ensures that the addition to the building is not overbearing or dominant.
- 6.37 The changes to the building fully accord with the requirements of Local Plan Policy EQ3.

### Local Plan Policy EQ6

- 6.38 HPLP Policy EQ6 requires development proposals to be well designed and to respect and contribute positively to the character, identity and context of the High Peaks townscapes, in terms of scale, height, density and layout.
- 6.39 The alleged unauthorised development involves minimal changes to the scale and height of a dwelling and no changes to the density or layout of development. In relation to EQ2 above I have set out that in my professional opinion, the building as it currently stands is of a higher standard of design and makes a more positive contribution to local character than the original building, which was constructed in lower quality blockwork, with unsympathetic modular window panels and a shallow pitched roof that did not reflect traditional local roof forms (or indeed those of more modern properties in the surrounding area).
- In terms of the design of the dwelling (and the alterations that have been undertaken), at paragraph 6.22, Mr Folland's Proof of Evidence indicates that the appeal building incorporates locally appropriate gritstone elevations and grey slate roofs, with grey fenestrations and black gutters and drainpipes, rather than white, which are more visually prominent. He goes on to confirm that the converted classroom property represents a modern interpretation of a family house and that the proposed materials and finishes are consistent with the Dark Peak and with associated material/colour recommendations within the Residential Design Guide SPD (Chapter 3 Understanding the Setting). He notes that by contrast, much of the more recent development in the vicinity of the site, does not incorporate such consistent materiality (eg houses on the adjacent Beech Rise and Linglongs Avenue comprise brick elevations, white fenestrations and tiled roofs).
- 6.41 Giving consideration to the previous appearance and overall sensitivity of the host dwelling and the guidance contained within the council's Residential Design Guide SPD, I consider that alterations to the dwelling are entirely acceptable in design terms. They also accord with the requirements of the

Framework at paragraph 130(c) which states that planning policies and decisions should ensure that developments:

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change

- 6.42 I also consider that if the requirements of the notice were upheld either in full or in part, there would be a detrimental effect on the character of the area as it would reintroduce features that are not characteristic of local building traditions.
- 6.43 In addition, the requirements at part 5.3 of the notice would result in the insertion of windows which do not fill the openings within the blockwork. These openings have not been enlarged in comparison with those on the building prior to conversion as the previous windows were part of modular units which included panels beneath the glazing. The notice makes no provision for filling of these areas, nor do I consider that it is able to, as requiring them to be built up would go beyond what is required to remedy the breach of planning control.
- 6.44 Adherence to the requirements of the notice and the resulting ill-fitting windows would degrade the appearance of the property to the detriment of local character. The building would appear unsightly and would not be weathertight, with implications for energy efficiency and residential amenity. As a result there would be greater conflict with EQ6 (and with the other policies referred to in the reasons for issuing the Notice) than if planning permission were granted. Upholding the requirements of the Notice would also result in conflict with Local Plan Policy S1 (Sustainable Development Principles) and EQ1 (Climate Change), as well as the requirements of the Framework at Parts 12 (Achieving well design places) and 14 (Meeting the challenge of climate change).
- 6.45 Furthermore, even if the notice had been drafted to require the insertion of glazed units and panels to match those previously present, this would not be desirable in design terms as I consider that the front elevation would take on a cluttered appearance which would not be in keeping with the traditional stone cladding that is now present on the building. The horizontal emphasis in the glazing arrangement would also be detrimental to the appearance of the property and the character of the area an would conflict with the policies referred to above.
- 6.46 The images below show the East elevation of the dwelling during the works to the roof and after completion of the unauthorised development for comparison.

Figure 4: Photograph of the Classroom Conversion during works to the roof in early 2016



Figure 5: Photograph of the Classroom Conversion during works to the roof in early 2016



6.47 For the reasons outlined above, I consider that the alleged breach of planning control complies with Local Plan Policy EQ6.

## **Other Policy Considerations**

6.48 The appeal property is not constrained by any specific planning designations, lies outside of the Green Belt and benefits from full permitted development rights. There is no suggestion that the works undertaken to the building have caused harm in respect of ecology, residential amenity, or any other technical matters (indeed I consider that the improvements to the dwelling and the provision of additional space within the roof has led to improvements to the amenity of the occupiers).

#### The fallback

- 6.49 As I have already noted, in the event that the appeal is unsuccessful and the appellant is required to comply with the steps at 5.1 and 5.2 of the Enforcement Notice, they would lose much needed space within the dwelling. However, following compliance with the steps in the Notice there would be a requirement for additional space for storage purposes. As the property benefits from permitted development rights, they would be able to create this space through the insertion of new dormer windows within the roof of the property in accordance with the requirements Schedule 2, Part 1, Class B of the General Permitted Development Order 2015.
- 6.50 However, as a result of the reduced ridge height of the property, the inclusion of pitched roof dormer windows would not provide the requisite space, therefore a longer flat roofed dormer window would be required. This is a material consideration that further weighs in favour of granting planning permission, as I consider that the effects of upholding the Notice are likely to be more harmful than granting planning permission for what is alleged in the notice.
- 6.51 The weight to be attributed to the fallback is determined in accordance with the legal principles set out in case law: R v Secretary of State for the Environment and Havering BC [1998] Env LR 189. The test is also referred to in the more recent judgment in Mansell v Tonbridge and Malling [2016] EWHC 2832 (Admin) (subsequently upheld in the Court of Appeal) See CD8.9.
- 6.52 This established 3 elements to the fallback test:
  - Whether there is a fallback (i.e. a lawful ability to undertake the development);

I consider there is clearly a fallback in this instance as I have shown that the building is lawfully a dwelling and therefore it benefits from the usual householder permitted development rights. A development could be undertaken that would not fall within any of the exceptions at B.1 of Schedule 2, Part 1 of the GPDO.

Whether there is a likelihood or real prospect of it occurring;



As outlined above, adherence with the steps in the Enforcement Notice would significantly reduce the space within the dwelling, which had been purchased on the basis that there would be accessible floorspace within the roof of the property. The appellant requires this space and given that the family business is a construction company that specialises in residential development, the appellant would be able to undertake this work himself.

• A comparison must be made between the proposed development and the fallback.

I consider that the elongated form of the dormer that the appellant would need to build to allow sufficient storage space, would be less sympathetic to the character of the area than the alterations to the roof (including the dormer windows) that are referred to in the alleged breach of planning control. It would detract more from the traditional pitched roof of the building, would not reflect location building traditions and would be less in keeping with surrounding development.

6.53 In light of the above it is clear that the fallback is a material consideration that further indicates that planning permission should be granted for the alleged breach of planning control and which should be afforded significant weight when considering the appeal under Ground A.

## Summary

6.54 I have shown that the matters alleged within the Enforcement Notice comply with the Development Plan Policies listed in the reasons for issuing the Notice and are acceptable in planning terms. There are no technical reasons that permission should not be granted for the alterations that have been undertaken to the dwelling. They complying with National Planning Policy and relevant local design guidance. Therefore in the event that the appeals under Grounds C and D are wholly successful, planning permission should be granted for all matters referred to in the alleged breach of planning control.

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)

6.55 In the event that the appeals under grounds A-D are not wholly successful and without prejudice to the appellant's case that the notice should quashed, I consider that the steps required by the notice exceed what is necessary to remedy the alleged breach of planning control, as elements of the works are clearly lawful and acceptable in planning terms.

- 6.56 While the consideration of certain elements of the appeal requires judgement to be exercised e.g. in relation the effects of the development; the materiality of changes to the appeal building; and points around the implementation of historic planning permissions, other aspects of the case for the appellant rely on clear factual evidence. In particular, on the basis of the evidence I have presented, I consider there can be no dispute that all works to the roof of the dwelling and the creation of three dormer windows was substantially complete in excess of 4 years prior to the service of the Enforcement Notice. However, this is not necessarily the case for the ground and first floor windows on the East elevation.
- 6.57 In the event that the inspector considers some of the alleged operations are unlawful and is unable to grant permission for the works in their entirety, the steps of the Notice could be amended to exclude the elements that are immune from enforcement and/or which comply with relevant planning policy (if the appeal under Ground A succeeds only in part).
- 6.58 Similarly, if the legal grounds of appeal fail, it would within the inspectors powers to grant planning permission for any part of what is alleged in the notice, for example by granting planning permission for some of the new windows on the East elevation, albeit I do not consider this should be necessary.

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

- 6.59 Given the extent of the works the Enforcement Notice requires to be undertaken to the host property, including the total removal of the existing roof, it is not considered that the appellant's family could continue to reside within the dwelling while the works were underway. Alternative accommodation would need to be found. As a result of this, the suggested 6 month period for compliance with the steps set out in the Notice would be insufficient.
- 1 am also concerned that 6 months could prove to be insufficient in light of potential delays with the supply of materials and labour shortages, which have affected the construction industry in recent years. Any such delays would be outside of the control of the appellant and could cause him to inadvertently breach the requirements of the Notice. Indeed it is noted that when the existing windows were originally ordered for the East elevation of the property, delays were experienced which meant they could not be fitted as quickly as had been intended. I therefore consider that a period of at least 12 months should be allowed for compliance with the requirements of the Notice. Although the modern construction of the roof of the building may reduce the likelihood of there being potential for bat roosts, a period of 12 months would also provide time to confirm whether protected species surveys were required and if so, to undertake them and address any emerging issues.

# 7. Appeal B - reference APP/H1033/W/21/3272745

# **Propositions**

- 7.1 I set out the case for the appellant with reference to a number of propositions.
- 7.2 These have been revised since submission of the appellant's initial statement of case as, at the time the appeal was submitted, the LPA's final Committee report had not been written and the reasons for refusal of the application were not known, the appeal originally being submitted against non-determination. The propositions are as follows:
  - Proposition 1: There is no conflict with the Development Plan Policies referred to in the reason for refusal of the application and the proposal is specifically in accordance with policy H1 which seeks to deliver housing on the edge of the settlement.
  - Proposition 2: The proposal would provide a good standard of amenity for future occupants and would accord with the requirements of the HPLP Policy EQ 6, the Council's 'Residential Design Guide' SPD and the National Planning Policy Framework.
  - Proposition 3: There are extant planning permissions for residential development at the site that provide a fallback position which is highly relevant when considering the acceptability of the proposed development. The proposed development would cause no greater harm than the fallback and is preferable to the fallback in planning terms.
  - Proposition 4: The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 8 of the Framework
  - Proposition 5: There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 11 of the Framework.

Proposition 1: There is no conflict with the Development Plan Policies referred to in the reason for refusal of the application and the proposal is specifically in accordance with policy H1 which seeks to deliver housing on the edge of the settlement.

#### Policies S1 and S1a

- 7.3 Policy S 1: "Sustainable Development Principles" states that the Council will expect all new development to make a positive contribution towards the sustainability of communities, and where possible, enhancing the environment; and mitigating the process of climate change within the Plan Area. I consider that the proposed development would achieve the following objectives set out in this policy:
  - Meeting most development needs within or adjacent to existing communities;
  - Making effective use of land (including the remediation of contaminated land and reuse of brownfield land), buildings and existing infrastructure;
  - Making effective use of land by ensuring that the density of the proposals is appropriate (and informed by the surrounding built environment);
  - Providing for a mix of types and tenures of quality homes to meet the needs and aspirations of existing and future residents in sustainable locations; and
  - Minimising the need to travel by promoting development in locations where there is access to a broad range of jobs, services and facilities, which are accessible by foot, cycle or public transport with minimal reliance on the private car.
- 7.4 Policy S 1a of the HPLP: "Presumption in Favour of Sustainable Development" largely reflects paragraph 11 of the Framework. There is no conflict with this policy.

### Policies S2 and S6

7.5 Policy S2 states that development will be directed towards the most sustainable locations in accordance with the settlement hierarchy set out in the policy. Whaley Bridge is identified as one



of five market towns which are the main focus for housing, employment and service growth, consistent with maintaining and where possible enhancing their role, distinctive character, vitality and appearance.

- 7.6 Policy S6 of the adopted Local Plan then deals with the Central Sub-area. It states that the council will seek to promote the sustainable growth of the Central Area such that it reflects the historic character of the settlements, provides an increasing range of employment opportunities, promotes the growth of a sustainable tourist economy and meets the housing needs of the local community.
- 7.7 The explanatory text to the policy states at paragraph 4.115 that Whaley Bridge is one of the main settlements in the sub-area.
- 7.8 The second part of the policy states that it will provide for the housing needs of the community by planning for sustainable housing and mixed-use developments in four ways:
  - Allocating a range of suitable, deliverable housing sites sufficient to meet the requirements of the central sub-area, including the delivery of appropriate levels of affordable housing.
- 7.9 There is no conflict with this part of the policy. The council relies on small scale windfall sites through the plan period to meet its needs which would be complementary to the larger housing allocations.
  - Supporting the development of new housing on sustainable sites within the built-up area boundary primarily in Chapel-en-le-Frith, New Mills and Whaley Bridge.
- 7.10 The appeal site is adjacent to but not within the built-up area boundary. This criterion does not preclude development outside the built-up area but is positively worded to support development within it. I refer to the more detailed consideration of development outside settlement boundaries set out in Policies EQ3 and H1 below.
  - Supporting the development of new housing within the mixed redevelopment of industrial legacy sites including Britannia Mill at Buxworth
- 7.11 There is no conflict with this part of the policy.

Ensuring that residential development avoids the adverse impact on the integrity of the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area, the South Pennine Moors Special Area of Conservation (SAC) and the Dark Peak Site of Special Scientific Interest (SSSI) – a component part of this European site

7.12 The site is not in close proximity to these designations and would have no impact upon them.

#### Policy H1

7.13 Policy H 1: "Location of Housing Development" explains 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"

7.14 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..." (my emphasis)

- 7.15 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 (a copy of the decision notice and location plan for HPK/2008/0069 is attached at CD9.2). Prior to that it was part of the wider grounds when the house was originally constructed. It is not agricultural land and has not been any time recently as evidenced by the extensive tree cover and is clearly part and parcel of a previously developed site.
- 7.16 Historic photographs show that the land in question was used in connection with the house as part of its curtilage and gardens. The image below shows the area of the site between the Classroom Conversion and the main building at Taxal Edge, which the council assert is not previously developed but which was clearly maintained as part of the curtilage and includes garden structures and landscaping to the right-hand side of the house. Parts of the walls and hedgerow within the photo are still evident on site today. Garden pathways have been uncovered by the appellant in this area, whilst undertaking routine maintenance of the grounds, reinforcing

the view that the land is part of the curtilage of Taxal Edge and constitutes previously developed land.

Figure 6: Taxal Edge circa 1946

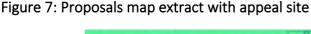


- 7.17 As I have noted above, while some of the plots for the appeal development include areas that are not currently occupied by buildings, that does not prevent the land from being classified as previously developed. Furthermore, the second bullet point of H1 is also permissive of infill development. As plots 5,6 and 7 are situated between the Classroom Conversion and the main building at Taxal Edge (the main building actually overlaps the footprint of the proposed dwelling on plot 5), there can be no question that the principle of development is acceptable under the second bullet of H1.
- 7.18 The second part of Policy H 1 states that the Council will give consideration to approving sustainable sites outside the defined built-up area boundaries, provided 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; and
  - the development would not lead to prominent intrusion into the countryside or have a significant adverse impact on the character of the countryside; and
  - it would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities; and

• the local and strategic infrastructure can meet the additional requirements arising from the development.

# Relationship to the built-up area boundary, pattern of development and settlement of Whaley Bridge

7.19 The relationship of the appeal site (shown in red) to the settlement boundary can be seen on the extract from the Local Plan proposals map below.





- 7.20 The access to the site from Macclesfield Road directly coincides with the built-up area boundary shown on the proposals map and the eastern boundary of the site is also immediately next to the built-up area of Whaley Bridge. 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, along which there is a right of access to the site, not just on foot. Adjacent to the footpath are dwellings which front onto the Rise, Beech Rise and Linglongs Avenue. The site clearly adjoins this part of Whaley Bridge and is well located with the existing pattern of development and surrounding land uses.
- 7.21 There is no requirement for the site to adjoin the built-up area boundary on all sides as clearly no site on the edge of a settlement would and nor does policy require a certain proportion of the site to adjoin the boundary.

7.22 Paragraphs 7.15 to 7.19 of the committee report sets out the council's case that the site would not adjoin the built-up area boundary other than at its access track where it joins with Macclesfield Road. This conclusion differs from that of the DCC Urban Designer who states in his/her response set out in the committee report (no paragraph number or page number) that:

"On the proposals map, the site is located adjacent to but outside of the builtup boundary of Whaley Bridge'

7.23 It also differs from the view of the case officer for application reference HPK/2013/0503, Page 3 of the delegated report for that application (Appendix EP12) states:

"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 Whale Bridge. It is on a bus route and close to the local primary school and sports facilities. The site is a brownfield site..."

7.24 Furthermore, when considering compliance with H 1, the initial assessment by the planning officer for the appeal application (set out in their report for the October 2020 Development Control Committee, also states that:

"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." (paragraph 7.12)

- 7.25 The council's current assertion that the appeal development cannot comply with H 1 because it does not adjoin the built up area boundary therefore represents a departure from the council's previous assessments.
- 7.26 The case officer for the appeal application cites two appeal decisions (Long Lane, Chapel-en-le-Frith, 2015 and Tunstead Milton, 2017) to support their revised position and which they consider results in a change in circumstances since 2013. However, in the first appeal decision, the inspector did not actually opine on whether an intervening road (or in the case of the appeal application, a path over which the applicant has access rights) would prevent a site from adjoining a settlement boundary. Furthermore, the second appeal decision 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.

- 7.27 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.
- 7.28 I refer to the judgment of *Corbett & Cornwall Council and Wilson [2021] EWHC 1114 (ADMIN)* (CD8.10) as upheld by the Court of Appeal, which related to a single ground of challenge to the committee's decision in interpreting '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. The judgment makes the following points which are of relevance to this appeal:
  - the phrase "immediately adjoining" must be given a "sensible meaning", which includes "next to" and "very near". The decision that the site fell within that definition represented a reasonable exercise of planning judgment (paragraph 19).
  - 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 (paragraph 25).
  - The judge noted that the full online Oxford English Dictionary makes no distinction between the meaning of "adjoining" and "adjacent". The definition of the latter word includes "next to or very near something else" (paragraph 26 and 27).
  - 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' (paragraph 46).
- 7.29 The assessment in the case of *Corbett & Cornwall Council and Wilson [2021]* addresses the requisite test as to whether a site was 'immediately adjoining the settlement'. In the case of High Peak, the judgment to be made is whether the development 'would adjoin the built-up area boundary', not that the development 'would immediately adjoin the built up area boundary'. The approach in High Peak is therefore less restrictive than that in Cornwall and the only logical conclusion is that the development adjoins the built-up area boundary, particularly as the footpath is perceived as part of the settlement as it runs between the houses that form the settlement, even though it outside of the boundary on the proposals map.
- 7.30 The question of whether the appeal site would be well related to the existing pattern of development is also addressed in the Landscape Proof of Evidence of Mr Nic Folland which forms part of the appellant's Evidence for this Inquiry. This finds that the development would be located within the perceived extent of the settlement, would be in keeping with the transitional wooded



character of the site and responds sympathetically to the topography of the site, to local design traditions and to development in the immediately surrounding area. No concerns have been raised by officers regarding the interface or relationship between the proposed dwellings and existing development on Beech Rise and Linglongs Avenue. In landscape terms the assessment has therefore concluded that the site could be viewed as part of the settlement itself rather than adjoining it but at the very least it does adjoin, a view consistent with the Council's own urban design advisor.

- 7.31 Indeed and as outlined later in my Proof of Evidence in relation to proposition 3, it is considered that the proposed design and layout of the appeal scheme is a more contextually appropriate response than the fallback development when considering the relationship with the existing pattern of development.
- 7.32 Turning to issues of scale, the scale of development proposed is entirely commensurate with the scale and nature of Whaley Bridge. According to the 2011 Census, there are 2,974 dwellings in Whaley Bridge. The adopted Local Plan seeks to direct new growth to the main market towns of which Whaley Bridge is one. The 7 houses proposed on this site represents a low proportion of the number of existing properties within the settlement. There can be no question that the scale of the development proposed is appropriate for the existing settlement.
- 7.33 The proposed development satisfies the first bullet point of the windfall policy outlined through Policy H1 of the adopted local plan.

# Impact on the character of the countryside and landscape impact

- 7.34 The second criterion requires that development would not lead to **prominent** intrusion into the countryside or have a **significant adverse** impact on the character of the countryside.
- 7.35 I refer to the Proof of Evidence of Mr Folland of Barnes Walker, regarding landscape matters and the potential impact on the character of the countryside. Further detail is also provided below in relation to policy EQ 2, where the findings of that assessment are applied directly to the criteria within the councils Landscape Character Policy.
- 7.36 In summary, Mr Folland's evidence makes it clear that the appeal development would not harm the character of the settlement or the wider countryside, nor would it be visually prominent.

- 7.37 The proposed development draws from and directly reflects patterns of development found in the immediately surrounding area in terms of its form and scale, and has taken design cues from local properties. 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 and topography also means that the development could never appear as a prominent intrusion into the countryside. The ridgeline to the West of the site forms the perceived extent of Whaley Bridge and the site is already developed, with extant planning permission for further development.
- 7.38 For these reasons, I consider that the development would not appear as a prominent intrusion into the countryside and the high quality and sensitive design would further ensure that it would not have a significant adverse impact on the character of the countryside. Indeed the Landscape Proof of Evidence submitted with this appeal shows that the development would not have any degree of adverse impact on the character of the countryside.
- 7.39 The proposed development satisfies the second bullet point of the windfall policy outlined through Policy H1 of the adopted local plan.

### Accessibility to schools, medical services, shops and other community facilities

- 7.40 The site is situated immediately adjacent to the settlement boundary of Whaley Bridge which has a full range of services and facilities available in the town centre. The reason for refusal of the application does not assert that the location is unsustainable.
- 7.41 Indeed the contrary is true. The site is in a sustainable location and can be accessed by a range of transport modes (i.e. public transport, walking and cycling). It is within walking distance of the bus stops on Macclesfield Road, which provide access to the 60 / 60A bus services which run between Hayfield and Macclesfield with stops in New Mills, Newtown, Furness Vale and Whaley Bride. The proposed development is therefore in accordance with paragraph 112 of the Framework and policy EQ 1 of the HPLP. The location has been accepted as sustainable through both the previous approvals on this site and those nearby off Linglongs Road for residential development.
- 7.42 In light of the above, it is clear that the proposed development relates to a sustainable edge-of-settlement site and would be fully compliant with Policy H1.

#### Policy EQ2

- 7.43 Policy EQ2 relates to Landscape Character. As noted above, the landscape impacts of the development have been assessed by Nic Folland of Barnes Walker. His Landscape Proof of Evidence is submitted alongside my Planning Proof of Evidence and forms part of the appellant's case. The findings of that assessment are applied to the relevant criteria of EQ2 below.
- 7.44 By way of context, at national level, paragraph 174 of the Framework requires development to contribute and enhance the natural and local environment by protecting and enhancing valued landscapes amongst other things.
- 7.45 Paragraph 175 of the Framework states that plans should distinguish between the hierarchy of international, national and locally designated sites. This site is not subject to any national, international or local designation. Nor has the landscape been identified as a 'valued landscape'.
- 7.46 The 2016 Local Plan no longer has areas of special landscape value but instead sets out landscape character types for the entire borough in accordance with the council's Landscape Character Supplementary Planning Document. The site falls within the Settled Valley Pastures character area.
- 7.47 Policy EQ2 states that the council will seek to protect, enhance and restore the landscape character of the Plan area for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the Plan Area.
- 7.48 This will be achieved by:
  - Requiring that development has particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape, such as trees and woodlands, hedgerows, walls, streams, ponds, rivers, ecological networks or other topographical features.
- 7.49 As shown on the site layout plan, natural features such as the trees and woodland located beyond the site boundary would be maintained and managed ultimately leading to an enhancement in the immediate surroundings. The design of the development has also had regard to the topography of the site and responds directly to this, drawing on advice within the council's Residential Design SPD in terms of the orientation and positioning of both the access road and the dwellings in relation to the contours of the site and existing tree cover.

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.

- 7.50 As noted earlier in my Proof of Evidence in relation to Appeal A, the site (together with the majority of Whaley Bridge) is located within the "Settled Valley Pastures" Character Area, as shown on the map on page 12 of the Landscape Character Supplementary Planning Document (adopted March 2006). Details of the characteristics of the 'Settled Valley Pastures' are set out in the Landscape Proof of Evidence by Mr Folland of Barnes Walker, which supports this appeal. However, in that PoE, it is noted that the SPD's description of the Character Area and the resulting guidance on development, is of limited relevance to the built-up area of Whaley Bridge, as it relates to built form in rural areas, rather than built form in settlements. Page 5 of the Landscape Character SPD confirms this, stating that the guidance in the document relates "solely" to rural areas and that the Residential Design Guide (SPD 2) addresses design in urban areas.
- 7.51 The Proof of Evidence of Mr Folland considers historic mapping and the influences that have shaped the character of the appeal site over time, including quarrying, and the incremental development of Whaley Bridge. It goes on to identify that the local topography and the relationship of the appeal site to the adjacent urban edge means that the ridgeline to the immediate West of the appeal site currently represents the perceived extent of the settlement.
- 7.52 As a result, the character of the appeal site is influenced by its proximity to the settlement and the key characteristics of the Settled Valley Pastures Landscape Character Type (as defined by the DCC's Landscape Character of Derbyshire and HPBC's Landscape Character SPD5), are not wholly consistent with the character of the appeal site. The appeal site is identified as a transitional area between the urban edge and the countryside where land rises towards the ridgeline to the West; where there is a higher proportion of tree cover than in the main settlement area; and where a visible and physical presence of built form prevails.
- 7.53 The landscape Proof of Evidence of Mr Folland sets out how the appeal scheme responds to this distinctive character, respecting the aspects of the Landscape Character SPD that are relevant, whilst acknowledging the role that the site plays as an area of transition.

- 7.54 It also confirms that the detailed design of the development directly draws upon key themes and guidance in the council's Design SPDs. This is outlined in more detail below in relation to the fourth bullet points of EQ2 and the design requirements of EQ6.
- 7.55 In terms of landscape mitigation measures, the application was accompanied by a landscaping scheme and landscape design statement. The landscaping proposals have subsequently been enhanced and a new landscaping scheme has been produced by Barnes Walker, which directly responds to the comments of the Landscape Officer and the Arboricultural Officer in connection with the application. The Landscape Proof of evidence summarises the proposed measures, which include additional native tree and shrub planting to provide improved levels of screening and containment to the site. The Proof of Evidence of Mr Folland confirms that the proposals will restore and enhance the wooded character of the site and assimilate the development into the wooded, settlement edge.

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

- 7.56 The development would be sited in a location where buildings are already present. Furthermore, the topography of the site and surrounding area, together with the woodland setting, would restrict views of the development from the wider area. Longer range views would be restricted to elevated locations to the East and South East where changes would be limited; would be viewed in the context of the wooded edge of the settlement and where the appeal site would form a very small part of expansive views.
- 7.57 The landscape setting of the Peak District National Park would be preserved. There are no objections from the Peak District National Park Authority and no suggestion from the LPA that the development would be harmful to the setting or purposes of the 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.

- 7.58 The proposals offer an enhancement to the character and appearance of the area when compared with the existing buildings on site.
- 7.59 I refer to the Landscape Proof of Evidence of Nic Folland with respect of landscape matters. At paragraph 7.6, this concludes that the development will be:

"well related to the existing pattern of development and surrounding land uses and will be of an appropriate scale for this aspect of Whaley Bridge."

7.60 It goes on to state that the scheme constitutes,

"good design that accords with many aspects of HPBC's Residential Design Guide SPD 2 and thus represents an appropriate design response to the appeal site's defining characteristics."

- 7.61 The assessment finds that along with an appropriate scheme of landscape works, the site can accommodate the proposed development without harm to the character of the settlement or the wider countryside ie the Settled Valley Pastures (paragraph 6.18).
- 7.62 Further detail on the design considerations that have led to this conclusion are set out in relation to policy EQ6 below. I conclude there is no reason why the proposals would not be compliant with Policy EQ2.

#### Policy EQ3

- 7.63 Policy EQ3, Rural Development, states that outside the settlement boundaries and sites allocated for development, 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 whilst also facilitating sustainable rural community needs, tourism and economic development. The policy lists 8 forms of residential development that would be allowed which includes development in accordance with Policy H1.
- 7.64 I have shown that the proposal is in full accordance with Policy H1 and by extension Policy EQ3.

# Policy EQ6

- 7.65 The reason for refusal states that the scheme would constitute poor design and fails to understand the site's defining characteristics but without explaining how the proposal comprises 'poor design' or identifying the site's 'defining characteristics'.
- 7.66 Policy EQ6 requires all development to 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. The Council appear to take issue with the first three bullets points within Policy EQ6 and these are addressed below:



# Requiring development to be well designed to respect the character, identity and context of High Peak's townscapes and landscapes

- 7.67 The design of the development has been developed to reflect the character and identity of the area in terms of layout, form and detailing.
- 7.68 The proposed layout shows how a linear form of development could be accommodated, which would reflect the approach taken to detached and semi-detached larger Victorian houses in Whaley Bridge, incorporating elements of the 'small scale villa' and 'grand villa' dwelling types described in the Residential Design Guide SPD. Both of these dwelling types often include front gables and the grand villas include dormer windows. These features are also evident on existing dwellings in the vicinity of the appeal site along Macclesfield Road (photographs are included at Appendix 1 of the Landscape Proof of Evidence by Nic Folland of Barnes Walker).
- 7.69 Although the Landscape Character SPD suggests that dormer windows are not appropriate in the Settled Valley Pastures, as I have noted earlier in my evidence, the guidance in the document relates solely to rural areas and given the site's transitional character and edge of settlement location, we consider it appropriate that design inspiration be drawn from the character of properties and built form in the vicinity of the appeal site, including design features commonly found on properties within Whaley Bridge. The existing property at Taxal Edge is also considered to fall within the Grand Villa typology and incorporates dormer windows. In that context (and notwithstanding that the existing building would be demolished), the proposed design features are not at odds with the character of the site or the surrounding area.
- 7.70 The scale of the development is similarly appropriate in relation to the dwelling typologies referred to above and in the context of existing built form at the site (illustrated on the site cross sections submitted at the application stage). It provides an efficient use of land, whilst respecting and retaining the woodland setting and retaining a sense of spaciousness to the front of the properties and around the access road.
- 7.71 The High Peak Residential Design Guide SPD states that:

The undulating nature of the land in High Peak is such that building methods have evolved to cope with the low availability of flat ground. This distinct topography has resulted in the varied and interesting roofscape of many High Peak settlements and designers will be expected to further contribute to this. (paragraph 5.7.2 a)

7.72 The document goes on to list the following principles when building up hill:



- *i.* Tiering will work best when elevations are not too wide.
- ii. Tiering should be on an individual basis or in small groups.
- iii. Chimneys and other vertical lines will enhance the tiered effect.
- iv. Run roofs parallel to the slope if it is established in the local vicinity.
- v. The approach chosen will depend on the local context.
- 7.73 The Proof of Evidence of Nic Folland confirms that properties in the surrounding area are often positioned along the contour lines on rising ground and are often stepped to accommodate localised changes in level. The appeal scheme reflects that traditional pattern of development, and the principles set out in the Residential Design SPD.
- 7.74 The development also follows the suggested approach at paragraph 5.7.4 a) of the Residential Design SPD, of Setting houses back from the road to improve views out from the dwellings, which in turn, enables balance in the provision of private rear amenity spaces, with good sized front gardens that would benefit from a more sunny aspect. It is considered to be an entirely appropriate and well considered design response which has been tailored to the specific characteristics and features of the site.
- 7.75 It is envisaged that views from the front of the properties would be framed by ornamental trees, with native tree species planted along the Southeast boundary of the site to enhance the woodland setting and containment of the development. The additional planting will also provide amenity benefits and enhance the setting of existing properties on Beech Rise and Linglongs Avenue.
- 7.76 The proposed materials of the development (gritstone and slate) are in keeping with local building traditions and the use of dark gutters and drainpipes is also consistent with the recommendations in the Residential Design SPD and the Landscape Character SPD.
  - Requiring that development on the edge of settlement is of high quality design that protects, enhances and / or restores landscape character, particularly in relation to the setting and character of the Peak District National Park
- 7.77 This has been addressed in relation to policy EQ2 and the criterion above.



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

- 7.78 This has also been addressed under the analysis for EQ2 and the first criterion of policy EQ6. We consider that the development would strengthen local character by removing a building that is dominated by unsympathetic additions; by enhancing the appearance of a somewhat 'tired' site; and by creating a high quality, contextually appropriate residential development.
- 7.79 In addition, it should be noted that the proposed demolition of the former children's home would remove a building with negative associations due to links with child abuse in the 1970s and early 1980s. Further information on this aspect of the site's history (which has been publicised in the Press), was submitted on a private and confidential basis with the application documents). In light of the history of the buildings at the site, it is considered that the development would provide benefits through creating a new chapter in the history of the site and removing traces of its former use.
- 7.80 I consider that the appeal development is fully compliant with this element of the policy and with EQ6 as a whole.

# Summary of Proposition 1

7.81 I have shown that the proposal would comply with policies S1, S1a, S2, S6, H1, EQ2, EQ3, and EQ6 and H1.

Proposition 2: The proposal would provide a good standard of amenity for future occupants and would accord with the requirements of the HPLP Policy EQ 6, the Council's 'Residential Design Guide' SPD and the National Planning Policy Framework.

- 7.82 The reason for refusal states that the scheme's design/layout would result in overbearing and shading impacts leading to an unacceptable level of amenity to be enjoyed by the future occupants of Plots 1 and 2.
- 7.83 Policy EQ6 on 'Design and Place Making' requires new development to 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.



#### 7.84 The committee report states:

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

"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."

- 7.85 The development plan and associated design guidance contain no specific standards for private outdoor amenity space. However, all properties would benefit from external areas that would enable occupants to sit outside and undertake typical leisure and social activities within their curtilages.
- 7.86 As well as having good standards of residential amenity commensurate with or better than those approved under permissions reference HPK/2009/0689 & HPK/2013/0503 (discussed in proposition 3 of this Proof of Evidence), residents would have good access to the countryside, public rights of way, and public open spaces within Whaley Bridge and the nearby Peak District National Park.
- 7.87 The design of the scheme has sought to balance the provision of rear and front gardens in order to make the most of the Southeast facing frontages. This directly accords with the guidance referred to in the officer report above (paragraphs 8.8.5 (Overshadowing) and 5.7.3 (Uphill arrangements) of the Residential Design Guide) and has been further informed by the appellant's understanding of the prevailing housing market preferences from their long association of building and delivering successful housing schemes within High Peak.
- 7.88 Although the decision notice states that the scheme's design and layout "would result in overbearing and shading impacts to an unacceptable level of amenity of amenity to be enjoyed by the future occupiers of Plots 1 and 2", a daylight and shading study has been undertaken in connection with this appeal, which assesses the development against the Building Research Establishment's good practice guidelines and non-mandatory targets for levels of daylight and

sunlight within existing and proposed development (BR209). This was not undertaken at the application stage as it was not requested by the council, nor did it form one of the suggested reasons for refusal when the application was taken to the November meeting of the Development Control Committee.

- 7.89 The study concludes that the requirements of BR209 are met or exceeded for all of the dwellings with the exception of the rear amenity areas for plots 1, 2 and 3. However, it notes that the front amenity areas to these plots exceed the recommended target values set in BR209, therefore all plots have access to an amenity space with adequate sunlight levels, complying with BR209 guidance. A copy of the assessment is attached at Appendix EP10. It also confirms that all habitable rooms of the proposed 7 dwellings, would 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. In addition, all 7 dwellings of the proposed development would have access to a window within 90 degrees due south and exceeds 25% Annual Probable Sunlight Hours and 5% Winter Probable Sunlight Hours, complying with BR 209 guidance.
- 7.90 It is therefore clear that the development would provide an acceptable standard of living accommodation and outdoor space. I consider this is particularly the case, given advice at paragraph 125 of the Framework that local authorities should take a flexible approach in applying policies or guidance relating to daylight an sunlight, where they would otherwise inhibit making efficient use of a site, as long as the resulting scheme would provide acceptable living standards.
- 7.91 Furthermore, the location of plots 1 and 2 on the appeal development correspond with the location of a dwelling that was approved by the council in 2010 without any concerns over the availability of, or shading of rear external amenity areas (the garage conversion). The approved garage conversion (which I consider can lawfully be completed), was approved with virtually no rear/private amenity space. It is therefore unclear how the council could deem that development to be acceptable, whilst finding that the appeal development would provide "inadequate and limited rear amenity space".
- 7.92 This raises issues in relation to consistency in decision taking. It is well established in case law that previous planning decisions are capable of being material considerations and may need to be taken into account by local planning authorities in determining subsequent applications for permission.

7.93 It was stated by Mann LJ in *North Wiltshire District Council v Secretary of State for the Environment* (1993) 65P & CR137 that:

"One important reason why previous decisions are capable of being material is that like cases should be decided in a like manner so that there is consistency...Consistency is self-evidently important to both developers and development control authorities. But is also important for the purpose of securing public confidence in the operation of the development control system."

7.94 Singh J stated in the case of *R* (*Midcounties Co-Operative Limited*) v Forest of Dean District Council [2017] EWHC 2050 that:

'Although the authorities demonstrate that a local planning authority is not bound by its earlier decision, nevertheless it is required to have regard to the importance of consistency in decision-making".

#### 7.95 To summarise:

- The council accept that the development incorporates suitable separation distances (for existing and proposed dwellings), and does not give rise to any amenity issues in respect of overlooking;
- A daylight and shading study has been undertaken which demonstrates that all of the properties would have access to amenity space which meets relevant BRE standards in terms of daylight and shading.
- The daylight and shading study also confirms that the interiors of the properties would have adequate daylight;
- There are no adopted local or national standards that require a specific quantum of outdoor amenity space;
- Similarly there is no policy requirement for external space to be provided on a specific side of a dwelling;
- The proposed arrangement of front and rear gardens provides a good level of outdoor space for each dwelling and takes advantage of the Southeast facing frontages in line with local guidance in the Residential Design SPD;
- residents would also have good access to the countryside, public rights of way, and public open spaces within Whaley Bridge and the nearby Peak District National Park.
- The council have approved a dwelling in the same location as the plots with which they take issue in respect of shading impacts. This would have less private/rear amenity space than is proposed for plots 1 and 2. As the proposed dwellings would provide more private space than the approved scheme, whilst retaining sunny front gardens, it is clear that the appeal scheme is a betterment in amenity terms.



- 7.96 In light of the above, I consider it is clear that the appeal development is acceptable in amenity terms.
  - Proposition 3: There are extant planning permissions for residential development at the site that provide a fallback position which is highly relevant when considering the acceptability of the proposed development. The proposed development would cause no greater harm than the fallback and is preferable to the fallback in planning terms.
- 7.97 I set out the appellant's case under proposition 3 without prejudice to my view that the proposed development complies with the Development Plan and is acceptable, even in the absence of the fallback
- 7.98 I have set out the relevant case law regarding the weight to be attributed to the fallback in my evidence for Appeal A.
- 7.99 In this case, the site benefits from a number of planning permissions. The fallback being relied upon is as follows:
  - Garage conversion to 1 detached dwelling application reference HPK/2009/0689 (substantial start); and
  - Conversion of the main building to 5no. apartments and the construction of a pair of semi-detached dwellings application reference 2013/0503 (Substantial start, 1 apartment completed).
- 7.100 Copies of the approved drawings, decision notices and officer reports for these applications can be found at CD9.3 and CD9.4.
- 7.101 The above would be completed in conjunction with the classroom conversion (1 detached dwelling) approved under application reference HPK/2009/0689. This is located next to the S78 appeal site and has been occupied since 2010, notwithstanding some of the more recent improvement works.
- 7.102 The committee report for application ref: 2013/0503 (which proposed conversion of the main building to 5no. apartments and the construction of a pair of semi-detached dwellings) states:

"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 two 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."

- 7.103 The committee report and update report for the appeal application noted that there was an enforcement investigation into the classroom conversion. As outlined earlier in my Proof of Evidence, following the close of the hearing for this S78 appeal, an Enforcement Notice was served in respect of a number of alterations to the dwelling. However, the Classroom Conversion falls outside of the appeal site and does not impact the development that could lawfully be undertaken on the appeal site if the appeal is dismissed. Furthermore, I have demonstrated through my evidence for Appeal A, that the Enforcement Notice should be quashed. Notwithstanding this, even in the event that the Notice is not quashed, the dwelling itself would remain.
- 7.104 There is therefore a fall-back position and the first strand of the legal test is met.
- 7.105 The second strand of the test relates to the prospect of the development being carried out. There can be no doubt that the appellant wishes to maximise the development potential of the site. This is demonstrated by the past applications/permissions, by the fact that the classroom conversion and one of the apartments has been completed and by the current appeal application.
- 7.106 In *Mansell* the weighting to be attributed to a fallback development was considered. In that case the LPA had granted planning permission for redevelopment of an agricultural building and a bungalow, with 4 large dwellings, justified by a fallback potential to undertake alternative development, including converting the agricultural building using PD rights. The decision was challenged by a neighbour on various grounds. In particular we refer to paragraphs 11 41 of the judgment.
- 7.107 The substance of the challenge in relation to the fallback issue is summarised paragraph 28, including that it had not been shown that there was any real prospect of the alternative development occurring as no application for prior approval had been submitted; and the fallback scheme would additionally involve development requiring planning permission, for which no application had been submitted either. Consequently it was claimed to be no more than a theoretical prospect.
- 7.108 The judge stated that it was crystal clear from discussions between the council and the applicant's planning agent that the intention was to develop the site in one way or another. He found it



wholly unrealistic to imagine that if permission was refused, the owner would not take advantage of PD rights to the fullest extent possible. In fact, he determined it would have been unrealistic to conclude that the interested party would do nothing to develop the site. The implication is clear – the fallback was more than a theoretical prospect, as the site had clear development potential, even though the details had not been approved.

- 7.109 Similar conclusions must be reached in this case. The existing site 'underachieves' in terms of its potential. A consideration of the fall-back is entirely absent from the landscape and urban design officers' assessments, which forms the basis of the case officer's conclusions on character and appearance. The fall-back position cannot be disregarded or attributed little weight without good reason. The second strand of the test relating to fallback is therefore met.
- 7.110 The third part of the test requires a comparison between the proposed development and the fall-back. I set this out below with reference to each key element of the reason for refusal.

### Relationship to the existing pattern of development and surrounding land uses

- 7.111 The proposed development would have a better relationship with existing pattern of development than the fallback. The development approved under application reference
- 7.112 HPK/2013/0503 includes a pair of semi-detached properties and car parking along the full extent of the South East boundary of the site, with a poorer relationship to the existing dwellings beyond that boundary.
- 7.113 In contrast, the appeal development (and in particular the revised landscaping scheme prepared by Barnes Walker) would strengthen the wooded and transitional character of the site through native tree planting along the full length of that boundary. The dominance of car parking would be reduced through a combination of driveways and garages, interspersed with further landscaping and trees. This would be more in keeping with the woodland setting than a continuous line of cars along the boundary adjoining the public footpath and existing residential development to the South East.
- 7.114 The sensitive landscaping of the site and the additional tree planting proposed in connection with the appeal development would also provide ecological benefits in comparison with the fallback and in preferable in that regard.

#### Scale



- 7.115 I have shown under propositions 1 and 2 that the scale of the appeal development would be entirely acceptable and would not have a detrimental effect on the character or appearance of the area, nor would it be overbearing or give rise to amenity issues.
- 7.116 The cross sections submitted at the application stage also show that the appeal development would generally be situated at a lower level within the landscape than the fallback (which comprises the existing buildings at Taxal Edge and an additional pair of semi-detached dwellings that are yet to be constructed).
- 7.117 The fallback scheme also brings buildings closer to the public footpath and to residential properties to the South East, increasing the perception of scale from public and private locations.
- 7.118 The bulk of the appeal development would be further reduced by the incorporation of a sensitive landscaping scheme which would break up and soften the appearance of the development in contrast with the fallback, where built form would not be interspersed by trees and where soft landscaping would largely be restricted to the gardens of the semi-detached properties. The lack of planting along the South East boundary in the fallback development would again increase the prominence and the perceived scale of the development.
- 7.119 For these reasons, I consider that the appeal development would appear less dominant than the fallback. It would represent a betterment in terms of scale and massing.

#### Design

- 7.120 The council's Urban Design Officer raises concerns relating to:
  - The use of retaining walls and proposed level changes
  - The scale of the development (addressed above)
  - The landscaping proposals
- 7.121 Having regard to the 2013 planning permission, this also incorporates level changes and retaining walls, as does the existing arrangement at the site, which uses them to create level areas for parking and built form. The Landscape Proof of evidence by Nic Folland notes that the existing site levels are unlikely to be natural as remodelling would have occurred when the existing development was constructed (as has inevitably occurred on sloping sites throughout the Borough). Retaining walls are not an uncharacteristic feature of the local area. The appeal scheme

- responds directly to the characteristics of the site by setting the dwellings back against the slope of the land in accordance with advice in the Residential Design Guide.
- 7.122 When Compared with the fallback, the proposed levels and use of retaining walls would have no greater impact. The levels and positioning of the dwellings for the appeal scheme more closely reflects the advice of the Residential Design Guide and therefore is favourable to the fallback in design terms.
- 7.123 The image below shows the approved site for the semi-detached dwellings authorised by 2013/0503.

Figure 8: Approved location for semi-detached dwellings (viewed from the public footpath)





7.124 The former gym building that is present in the photograph has now been demolished, but gives an indication of how visible and prominent the pair of semi-detached properties would be when viewed from the public footpath to the South East of the site. These dwellings would also be taller, much closer to and have more of an impact on existing residential properties to the South East than the development proposed in the appeal application.

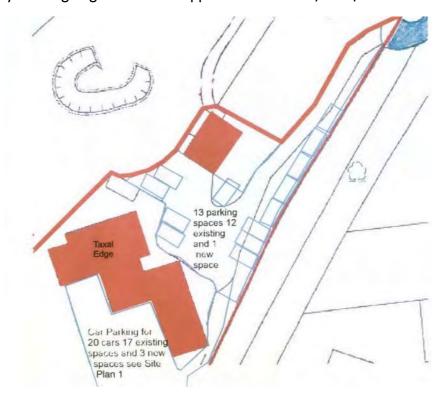
7.125 As noted above, in addition to these dwellings, almost the entirety of the South East boundary of the site would be occupied by parking and by the access road to the properties. In contrast, the appeal scheme would provide a softer edge to the development and the appearance of an enhanced woodland setting, which once again, is favourable to the fallback in design terms. Trees and green amenity areas would be present along the full length of the access road, providing a more sensitive landscape treatment than the fallback development which involves extensive areas of tarmac and hard/paved surfaces, with minimal soft landscaping.

# Overbearing and shading impacts in respect of plots 1 and 2

- 7.126 The overbearing and shading impacts referred to in the reasons for refusal are included on the basis that they would result in unacceptable levels of residential amenity.
- 7.127 Under proposition 2 of this Proof of Evidence, I showed that each of the proposed dwellings would enjoy good levels of residential amenity and that there would be no overbearing or shading impacts that would result in unacceptable levels of amenity for the future occupiers (including plots 1 and 2). This is evidenced by a daylight and shading study that has been undertaken to assess the daylight and sunlight that would be available to different parts of the properties. Notwithstanding that the study finds that the appeal development would meet the relevant BRE/best practice standards in respect of daylight and shading, it is also clear that it would provide a better and higher quality arrangement of outdoor amenity space than the fallback development.
- 7.128 The location of plots 1 and 2 on the appeal development correspond with the location of a dwelling that was approved by the council in 2010 without any concerns over the availability or quality of rear external amenity areas (the garage conversion). The only outdoor amenity area for the approved garage conversion (which can lawfully be completed), would be located alongside the access road and fronting an area of parking area serving the wider site. There would be virtually no private outdoor amenity space to the rear of the dwelling. This is illustrated below on the approved layouts for HPK/2009/0689 and HPK/2013/050.
- 7.129 The second image also shows that there would be no garden area for the apartments, which would be served by a yard, half of which would also be sited along the more shady northern boundary and further enclosed by an outbuilding. Furthermore, the garden area for the more southern of the semi-detached dwellings would not be visible from that property, reducing its

- amenity value and the suitability of the property as a family home, due to lack of surveillance of children utilising the space.
- 7.130 All of these factors lead me to conclude that the outdoor amenity space for the appeal development is far superior to the fallback in amenity terms, as it balances the provision of private rear areas, with sunnier front gardens, all of which would be subject to natural surveillance by the host properties

Figure 9: Site layout for garage conversion approved under HPK/2009/0689



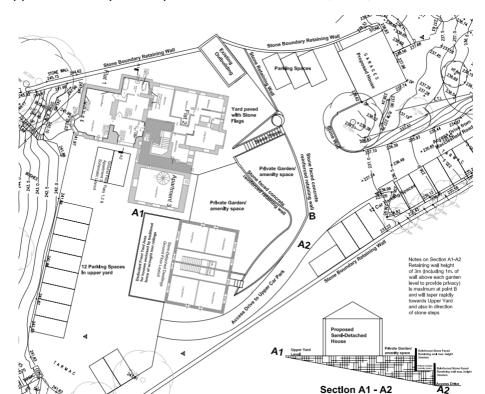


Figure 10: Approved site layout for permission reference HPK/2013/0503

- 7.131 Having regard to the above, I consider that significant weight should be given to the fallback option as it is a realistic and viable alternative to the development proposed, which is less favourable than the appeal scheme in relation to each strand of the reasons for refusal of the application.
- 7.132 In light of this (and notwithstanding my view that the proposed development is policy compliant), even if it is found that the appeal development would give rise to a degree of conflict with the Development Plan, it is clear that the fallback is a material consideration that indicates planning permission should be granted for the development.

Proposition 4: The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 8 of the Framework

7.133 Paragraph 11 of the Framework states that plans and decisions should apply a presumption in favour of sustainable development.

7.134 Paragraph 8 of the Framework explains that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives) These are addressed below in the context of the current application.

#### a) an economic objective

7.135 Paragraph 8 of the Framework explains that the economic objective is:

"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"

- 7.136 The proposed development would meet this objective as discussed below.
- 7.137 During the build programme of the whole site, construction related jobs and indirect jobs would be created. The appellant is a local development company, with a local labour force, which seeks to support other local businesses by sourcing materials from High Peak and immediately surrounding areas wherever possible. This would benefit local contractors and suppliers.
- 7.138 The proposed development would help contribute to ensuring the Borough has a stable workforce in terms of ability and age. This is especially the case here where the applicant is a local developer with a proven track record in delivering high quality development which responds to the needs of the local market. Once occupied, the residents of the scheme would spend money in Whaley Bridge and other towns in the High Peak. The proposed development would therefore generate spending in the Borough, which would help create full time jobs in the local retail and leisure sectors. In addition to the above, the proposed development would deliver a New Homes Bonus and Council Tax income for the Council.

# b) a social objective

7.139 Paragraph 8 of the Framework explains that the social objective is:

"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 present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;"



- 7.140 There are three strands to this criterion: design and accessibility; the provision of houses where required; and supporting strong, vibrant and healthy communities.
- 7.141 I have addressed design comprehensively earlier in this Proof of Evidence and have shown that the development respects and responds to the local context. It is architecturally appropriate and would be set within carefully considered landscaping that would strengthen the character of the area. In terms of accessibility, the site is located immediately adjacent to Whaley Bridge, one of the key towns and focus for development in the adopted and emerging development plan.
- 7.142 Whilst it is of note that the Council claims it can demonstrate a deliverable five year housing land supply in accordance with paragraph 73 of the Framework, Policy H 1 of the HPLP allows for residential development beyond existing built up area boundaries as long as specific criteria are met even when the Council can demonstrate a five year supply of land i.e. being able to demonstrate a deliverable five year supply is a minimum requirement, it is not a ceiling.
- 7.143 I consider that regardless of the position with the Council's five year supply, the site would contribute to meeting the housing needs of Whaley Bridge, the Central Area and the Borough as a whole. Whaley Bridge is identified as one of five market towns. Policy S 2 of the HPLP: "Settlement Hierarchy" states that the market towns will be the main focus for new housing.
- 7.144 Policy S 3 of the HPLP: "Strategic Housing Development" explains that the housing requirement between 2011 and 2031 is 7,000 dwellings. It identifies a residual housing requirement of 3,549 dwellings (as at December 2014). This residual requirement is set out in table 2 of the HPLP (page 38), which also explains that 2,976 dwellings were on committed sites at December 2014. These sites are listed in appendix 4 of the HPLP. Included as a commitment are the 7 no. dwellings at Taxal Edge approved under permission HPK/2013/0503 (page 222 of the HPLP). Table 4 of policy S 3 then explains that 100 dwellings will be delivered on small sites in Whaley Bridge excluding the sites which already had planning permission at December 2014.
- 7.145 Consequently, the delivery of housing at the site is a significant benefit. The Applicant is an active house builder in the High Peak, with sites across the Borough but specifically in the Central Area. They have an excellent track record of delivering sites. Subject to the approval of the current application, the Applicant is keen to make a start on the dwellings as soon as possible.

- 7.146 In addition, policy H 3 of the HPLP: "New Housing Development" states that the Council will require all new residential development to address the housing needs of local people. The proposed development would be in accordance with this policy for the following reasons:
  - It would provide housing types that would meet the requirements and future needs of a wide range of household types;
  - It would assist in 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;
  - It would include a proportion of housing suitable for newly forming households; and
  - It would provide flexible accommodation which is capable of future adaptation.
- 7.147 Lastly, and as referred to earlier in my Proof of Evidence, the redevelopment of this site would lead to a clear break from the past history of this particular site and essentially take on a social responsibility of giving closure to the unfortunate experiences of some of the previous residents of the site during its time as a residential school.
- 7.148 The social role of sustainable development is met.

# c) an environmental objective

7.149 Paragraph 8 of the Framework explains that the environmental objective is:

"to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy."

7.150 The proposed development would result in the redevelopment of a previously developed site and would represent an efficient use of land. The site is in flood zone 1 and therefore not at risk of flooding or at risk of flood from rivers or reservoirs. The recommendations of the arboricultural report are followed in the design; and the landscaping of the site, and additional proposed tree planting would result in ecological benefits in comparison with both the current position and the fallback. The replacement of an old building with dwellings of modern construction and which accord with current building regulations, will provide benefits in terms of energy efficiency and climate change.

Proposition 5: There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 11 of the Framework.

7.151 There are no other planning, environmental or technical considerations that would prevent planning permission being granted. The matters addressed below did not form part of the reason for refusal.

#### **Ecology**

- 7.152 Policy EQ 5 of the HPLP states that the biological and geological resources of the Plan Area and its surroundings will be conserved and where possible enhanced. It is common ground between the appellant and the LPA that the development is acceptable with reference to ecology.
- 7.153 An extended phase 1 habitat survey and bat emergence survey were prepared by NLG Ecology.
- 7.154 They noted that as the site was within the SSSI Impact Zone for Toddbrook Reservoir SSSI, consultation could be required with Natural England. This consultation was undertaken by the LPA and Natural England confirmed they had no objection to the development.
- 7.155 NLG also recommended the following:
  - Vegetation clearance should be avoided within 'priority' habitat areas and where possible, should be kept to a minimum.
  - Overnight lighting should be avoided.
  - Specific methods should be implemented when removing areas of rhododendron to prevent further spread, including the use of heribcides and re-treatment/cutting of new growth on treated stumps.
  - The main building was assigned high bat roosting potential; other buildings had a moderate and low roosting potential; and trees and woodland were also identified to have roosting potential. Two dusk emergence surveys and one dawn re-entry survey were undertaken and confirmed a small number of summer and occasional summer day roosts for single pipistrelle bats, all of which were within the main building. The assessment advised that as there was limited hibernation potential for bats, works to the identified roost areas should be undertaken during the months that the summer roosting bats are least likely to be there, which is October to March inclusive and could be done under a Low Impact Class License.

- The site's habitats offer nesting opportunities to a range of common bird species. If removal of any suitable vegetation is required, this should take place outside of the main nesting season.
- A precautionary working method statement is required in respect of reptiles.
- A desk study returned over 30 records of badger within 2Km of the survey area. As a
  precaution, if any holes suspected to be badger sett entrances are unexpectedly
  discovered during the works, work must cease and an ecologist must be contacted for
  advice.
- If removal of dense scrub or bash pile is required then it should be done by hand taking care to look out for hedgehogs. If hedgehogs are found they should be safely relocated.
- 7.156 I consider that all of the above can be dealt with through the use of suitable working methods and the use of planning conditions as necessary.

# Trees, woodland and hedges

- 7.157 Policy EQ 9 of the HPLP states that the Council will protect existing trees, woodlands and hedgerows.
- 7.158 The phase 1 ecology report confirmed that to compensate for loss of woodland habitats the appellant was undertaking tree planting of 1,500 whips of hawthorn (*Crataegus monogyna*), blackthorn (*Prunus spinosa*), field maple(*Acer campestre*),hazel (*Corylus avellana*) and crab apple (*Malus sylvestris*) along the boundaries of the woodland (outside of the appeal site), to provide woodland edge habitat and diversify the woodland structure. A detailed woodland management plan is also being developed by NLG Ecology on behalf of Treville Properties for the area indicated in blue surround on Figure 4 of the phase 1 report: Ownership Boundaries. The aim of the woodland management plan is to enhance and ensure the longevity of the surrounding priority woodland habitats for the future through sensitive woodland management practices.
- 7.159 Arboricultural reports (comprising tree schedule, constraints plan, arboricultural impact assessment, method statement and tree protection plan) were prepared by Thompson Tree Services and submitted to support the application. The documents were prepared in close consultation with the council's Tree officer and responded to their feedback on the scheme.
- 7.160 Thomspon Tree Services concluded that:

"The overall impact of the proposed development on the tree population of the development site and wider local environment is minor.



...with...well- considered replacement planting, and the development of a woodland management plan, the development can be viewed as an opportunity to enhance the arboricultural value of the area, the resilience and sustainability of its tree population and to provide net benefit in the long-term.

...provided that the demolition and construction is carried out in accordance with the recommendations detailed within this report, the Arboricultural Method Statement, and the Construction Method Statement, then there is no arboricultural reason as to why the proposal cannot be implemented."

7.161 Following the submission of the additional tree reports and information from Thompson Tree Services, the LPA confirmed that the development was acceptable from an arboricultural perspective. The officer report to the April 2021 meeting of the Development Control Committee states:

"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." (paragraph 7.45)

#### **Amenity**

- 7.162 I have addressed the amenity related reasons for refusal under proposition 2. However, these were focused on the amenity of the future occupants of the proposed dwellings.
- 7.163 In addition to providing a high standard of accommodation and living conditions for future residents, the development would also protect the amenity of existing residents in the immediately surrounding area in accordance with Local Plan Policy EQ6. This requires development to achieve a satisfactory relationship to adjacent development and not to cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing or other adverse impacts on local character and amenity.
- 7.164 The LPA received a number of comments from third parties following consultation on the application. The responses included both objections and positive letters of support.
- 7.165 The appellant and Emery Planning have also received direct letters of support for the scheme from local residents and enquiries from prospective purchasers that are interested in buying the dwellings if permission is granted. An example of correspondence received from a local resident and prospective purchaser is attached at Appendix 11. It makes a number of observations, including:



- A new build would improve the road and access.
- They would like to see full redevelopment of the site, to make it safe, including the
- perimeter wall and stop it being an eye sore.
- The current unit is completely environmentally unfriendly and a modern build will have benefits for climate change.
- 7.166 The objections at the application stage were comprehensively addressed in correspondence with the LPA, which has been submitted as part of the appeal documentation. It should be noted that 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 reason for refusal of the application.
- 7.167 While concerns were raised by a small number of local residents regarding the potential for overlooking of gardens and dwellings to the South East of the site, the separation distances where new dwellings would directly face the rear elevations of existing dwellings, are in the region of 60m. Although this would drop to nearer 40 at the northern end of the site, those properties would be situated at an angle to the existing dwellings on Linglongs and Beech Rise, and the set backs are still far in excess of the guidelines in the Residential Design Guide SPD. The dwellings would also be partially screened by existing and proposed trees within and beyond the site. Furthermore, the front gardens to the proposed dwellings would be sited further from the rear gardens of existing adjacent properties than those of the approved semi-detached dwellings (the fallback development application reference HPK/2013/0503).
- 7.168 I considered the visual effects of the development earlier in this Proof of Evidence and they are addressed in detail within the Landcape Proof of Evidence by Nic Folland. However, it is clear that the layout, scale and detailed design of the development in combination with a sensitive landscaping scheme would ensure the proposed dwellings did not have an overbearing effect on existing properties at Beech Rise and Linglongs Avenue. The development would also be less dominant than the fallback scheme in views from existing dwellings.
- 7.169 As noted above, a number of residents in the local area have written letters in support of the application, praising the design and confirming they consider the development would be, "a big improvement on the original building" and "huge improvement to this area".
- 7.170 Overall, I consider that the development is entirely acceptable in amenity terms.
- 7.171 In the April 2021 committee report, the case officer concludes:



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. (Paragraph 7.47)

# **Highways**

7.172 Derbyshire County Council Highways has confirmed that subject to the imposition of conditions, the development would not have any unacceptable impacts on highway safety and that the proposed access arrangements are acceptable, with adequate parking and turning areas provided within the site. The April 2021 Committee report for the application confirmed that all highways matters could be dealt with by suitably worded planning conditions and that accordingly, "the proposal is in accordance with LP Policy CF6 and the NPPF and with the relevant aspects of LP Policy H1".

# Affordable housing and housing mix

- 7.173 Local Plan Policy H3 states that 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)
- 7.174 In line with national planning policy, there is no requirement for affordable housing as 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
  - 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.
- 7.175 Detailed justification for the proposed mix of house types was submitted at the application stage, including reference to other relevant applications and appeal decisions. The justification confirms that the housing needs survey relied upon by the SHMA is out of date; the policy advice in the SHMA is to be applied flexibly; up to date information from estate agents in Whaley Bridge shows a high level of demand for 3 and 4 bedroom detached family homes; and the proposed house mix takes into account the characteristics of the existing housing stock in the surrounding locality in accordance with criterion c of Policy H3.

7.176 In light of the above and the limited scale of the development (meaning that any deficit of smaller properties would be unlikely to cause harm in terms of the overall balance of housing stock), the LPA accept that that the proposed house mix is acceptable in relation to Policy H3 and does not constitute a reason to refuse planning permission.

#### Pollution control and unstable Land

- 7.177 Policy EQ 10 of the HPLP states that the Council will protect people and the environment from unsafe, unhealthy and polluted environments.
- 7.178 A Phase 1 Site Investigation report has been prepared by Peak Environmental Solutions and has been submitted in support of the application. The report concludes by identifying a moderate to very low risk from the limited sources of potential contamination at the site. It recommends a phase 2 report which can be secured by planning condition.
- 7.179 There is no conflict with policy EQ 10.

#### Flood risk management

- 7.180 11.30 Policy EQ 11 of the HPLP states that the Council will support proposals that avoid areas of 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 a sustainable pattern of development.
- 7.181 The site is in flood zone 1. It is not at risk of flooding or at risk of flood from rivers or reservoirs.
- 7.182 There is no conflict with Policy EQ 11.

#### Summary

7.183 I have shown under the earlier propositions that the reasons given for refusing planning permission are unfounded. Under this proposition it has been demonstrated that the development is acceptable in all other respects and complies with other relevant planning policies in the Development Plan.

# Summary and conclusions

- 7.184 This Proof of Evidence supports an appeal against the refusal of High Peak Borough Council to grant planning permission for the demolition of the existing building known as "Taxal Edge" and the associated detached garage building, and the erection of 4 no. semi-detached and 3 no. detached dwellings at land at Taxal Edge, 184 Macclesfield Road, Whaley Bridge. A separate Landscape Proof of Evidence by Nic Folland of Barnes Walker has been submitted alongside my Proof of Evidence. Taken together the two documents comprise the appellants full case for the appeal.
- 7.185 The appeal application sought planning permission for demolition of the existing building known as "Taxal Edge" and the associated detached garage building, together with the erection of 4 no. semi-detached and 3 no. detached dwellings. Planning permission was refused on 19 April, shortly after the submission of an appeal against non-determination.
- 7.186 The decision notice cites one reason for refusal which is set out in Section 3 of this Proof of Evidence
- 7.187 I have set out the case for the appellant with reference to a number of propositions. A summary of these is provided below.
  - Proposition 1: There is no conflict with the Development Plan Policies referred to in the reason for refusal of the application and the proposal is specifically in accordance with policy H1 which seeks to deliver housing on the edge of the settlement.
- 7.188 The development plan comprises the High Peak Borough Local Plan 2016 (HBLP). The decision notice states that the proposal would be contrary to 8 policies. However it has been shown that the appeal development fully accords with these policies.
- 7.189 The development would meet a number of the sustainability objectives set out in Policy S1 of the Local Plan including by making efficient use of land and providing a mix of quality homes in a sustainable location where there is access to a broad range of jobs, services and facilities in Whaley Bridge. Whaley Bridge is identified one of five market towns which are the main focus for housing, employment and service growth under Policy S2. There is no conflict with these policies or with policy S1a of the HPLP, which reflects the presumption in favour of sustainable development at paragraph 11 of the Framework. Nor is there conflict with Policy S6.

- 7.190 Local Plan Policy H1 seeks to encourage 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.
- 7.191 I have shown that the appeal development constitutes both redevelopment and infill development. The site is already in residential use and has permission for further residential development. It is clearly a suitable location for housing.
- 7.192 The second part of Policy H1 sets out the circumstances under which the council will consider granting permission for residential development outside of the built-up area boundary. It has been shown that the appeal development would comply with each the criteria under this part of the policy.
- 7.193 It would adjoin built up area boundary both physically and in accordance with the definition set out in recent planning case law in *Corbett & Cornwall Council and Wilson [2021]* which includes "next to" and "very near".
- 7.194 Notwithstanding the built-up area boundary on the proposals map, the Landscape Proof of Evidence actually finds that the development would be located within the perceived extent of the settlement. It also demonstrates that:
  - the development would be in keeping with the transitional character of the site and would be well related with the existing pattern of development; and
  - The appeal development would not harm the character of the settlement or the wider countryside, nor would it be visually prominent.
- 7.195 In terms of the remaining requirements of the policy, the scale of the development is very modest in relation to the scale of Whaley Bridge and is clearly appropriate; there is no dispute that the development would have reasonable access by sustainable means, to the various services and facilities in Whaley Bridge; and the local and strategic infrastructure is capable of meeting the requirements arising from the development. The requirements of Policy H1 are fully met.
- 7.196 In respect of HPLP policies EQ2, EQ3 and EQ6, I have shown that the development would maintain the aesthetic and biodiversity qualities of the landscape and would be sympathetic to the distinctive character of the area.
- 7.197 The Landscape Proof of Evidence by Nic Folland provides a detailed assessment of the sites defining characteristics and relationship to the wider landscape and settlement of Whaley Bridge.



It has been shown that the appeal development would respond to this distinctive character; respect the aspects of the Landscape Character SPD that are relevant to the site; and would reflect the key themes and guidance in the council's Design SPDs. The proposed native tree and shrub planting would provide improved levels of screening and containment to the site which would restore and enhance the wooded character and assimilate the development into the wooded, settlement edge.

7.198 I conclude that the site can accommodate the proposed development without harm to the character of the settlement or the wider countryside i.e. the Settled Valley Pastures and that the design is entirely appropriate and accords with relevant local design guidance. There would be no impact on the landscape setting of the Peak District National Park.

Proposition 2: The proposal would provide a good standard of amenity for future occupants and would accord with the requirements of the HPLP Policy EQ 6, the Council's 'Residential Design Guide' SPD and the National Planning Policy Framework.

- 7.199 The council accept that the development incorporates suitable separation distances (for existing and proposed dwellings), and does not give rise to any amenity issues in respect of overlooking.
- 7.200 A daylight and shading study has been undertaken which demonstrates that all of the properties would have access to amenity space which meets relevant BRE standards in terms of daylight and shading.
- 7.201 The daylight and shading study also confirms that the interiors of the properties would have adequate daylight.
- 7.202 There are no adopted local or national standards that require a specific quantum of outdoor amenity space.
- 7.203 Similarly, there is no policy requirement for external space to be provided on a specific side of a dwelling.
- 7.204 The proposed arrangement of front and rear gardens provides a good level of outdoor space for each dwelling and takes advantage of the Southeast facing frontages in line with local guidance in the Residential Design SPD.
- 7.205 Residents would also have good access to the countryside, public rights of way, and public open spaces within Whaley Bridge and the nearby Peak District National Park.



- 7.206 The council have approved a dwelling in the same location as the plots with which they take issue in respect of shading impacts. This would have less private/rear amenity space than is proposed for plots 1 and 2. As the proposed dwellings would provide more private space than the approved scheme, whilst retaining sunny front gardens, it is clear that the appeal scheme is a betterment in amenity terms.
- 7.207 I conclude that the appeal development is acceptable in amenity terms.

Proposition 3: There are extant planning permissions for residential development at the site that provide a fallback position which is highly relevant when considering the acceptability of the proposed development. The proposed development would cause no greater harm than the fallback and is preferable to the fallback in planning terms.

- 7.208 Notwithstanding my view that the appeal development is acceptable in its own right, my Proof of Evidence has set out the legal principles relating to fallback development as a material consideration and shown that each of the three tests established in *R v Secretary of State for the Environment and Havering BC [1998] Env LR 189* has been satisfied.
- 7.209 The fallback being relied upon is as follows:
  - Garage conversion to 1 detached dwelling application reference HPK/2009/0689 (substantial start); and
  - Conversion of the main building to 5no. apartments and the construction of a pair of semi-detached dwellings application reference 2013/0503 (Substantial start, 1 apartment completed).
- 7.210 I have shown that the above development would be lawful; have a real prospect of occurring; and would be more harmful than the appeal development in respect of the reasons for refusal of application reference HPK/2020/0301.
- 7.211 The appeal development is preferable to the fallback for the following reasons:
  - It retains a greater set back from existing dwellings beyond the South East boundary of the site and has a better relationship with development beyond that boundary.
  - It would strengthen the wooded and transitional character of the site through native tree planting along the full length of South East boundary and would break up the dominance of car parking in comparison with the fallback



- It would be situated at a lower level within the landscape than the fallback and be perceived as having reduced scale, bulk and prominence from public and private locations.
- When Compared with the fallback, the proposed site levels and use of retaining walls would have no greater impact. However, the positioning of the dwellings for the appeal scheme more closely reflects the advice of the Residential Design Guide and therefore is favourable to the fallback in design terms.
- The appeal scheme would provide a more sensitive landscape treatment and softer edge to the development than the fallback, which involves extensive areas of tarmac and hard/paved surfaces, with minimal soft landscaping.
- The outdoor amenity space for the appeal development balances the provision of private rear areas, with sunnier front gardens, all of which would be subject to natural surveillance by the host properties. In contrast, the fallback development provides no gardens for the apartments and there are limitations with some of the other properties in terms of the relationship of the external spaces to the host dwellings.
- 7.212 In light of this (and notwithstanding my view that the proposed development is policy compliant), even if it is found that the appeal development would give rise to a degree of conflict with the Development Plan, it is clear that the fallback is a material consideration that indicates planning permission should be granted for the development.

Proposition 4: The proposal represents a high-quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 8 of the Framework

- 7.213 The development would contribute to the 3 objectives of sustainable development.
- 7.214 It would support the economic objective through the provision of construction related jobs and indirect jobs and help contribute to ensuring the Borough has a stable workforce in terms of ability and age. The residents of the scheme would spend money locally, which would help create full time jobs in the local retail and leisure sectors. In addition to the above, the proposed development would deliver a New Homes Bonus and Council Tax income for the council.
- 7.215 It would contribute to the social objective through high quality design and would contribute to meeting the housing needs of Whaley Bridge, the Central Area and the Borough as a whole. Redevelopment of the site would also lead to a clear break from the past history of this particular site and essentially take on a social responsibility of giving closure to the unfortunate experiences of some of the previous residents of the site during its time as a residential school.

7.216 The development would support the environmental objective of sustainable development by making efficient use of land through the use of a previously development site; by creating a sensitively design high quality environment; and through a planting scheme that would provide ecological benefits.

Proposition 5: There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 11 of the Framework.

- 7.217 My Proof of Evidence demonstrates that all other site specific and policy considerations including ecology, trees, contamination and highways can be addressed through the use of planning conditions.
- 7.218 While concerns have been raised by a small number of local residents regarding the potential for overlooking of gardens and dwellings to the South East of the site, the separation distances are well in excess of the guidelines in the Residential Design Guide SPD and the dwellings would be partially screened by existing and proposed trees within and beyond the site.
- 7.219 The site is not at risk of flooding and the LPA accept that that the proposed house mix is acceptable in relation to Policy H3 and does not constitute a reason to refuse planning permission.
- 7.220 It is therefore clear that there are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 11 of the NPPF.

#### Conclusion

- 7.221 My Proof of Evidence demonstrates that the appeal proposal complies with the relevant policies in the Development Plan. The reasons for refusal given in the decision notice dated 19 April 2021are unfounded and there are no other material considerations to indicate that planning permission should not be granted.
- 7.222 I therefore request that the appeal is upheld, and planning permission granted for the development in accordance with paragraph 11 of the Framework and the presumption in favour of development.

## Thomas, Andy

#### Subject:

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 22 March 2022 11:21

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: RE: XXXXXXXXXXX

Hi Andy,

Xxxxxxxxxxxxx

A couple of other matters:

- 1. XXXXXXXXXXXXXXXX
- 2. Taxal Edge Rachael had an informal hearing last week, concerning a planning application for new housing which was refused by the Committee. Unfortunately the hearing was adjourned and transferred to a public inquiry. The barrister representing us, has now requested that we consider enforcement action against a house which has been built on the land and possibly the demolition of another structure (I don't know which building this is). Therefore I may need your help in getting the information together we need, to decide if enforcement action can be taken. This will be a priority as it looks like (from first reading of the barristers note and info from local residents) that this will need to be done by the 1st/2nd week of April.
- 3. XXXXXXXXX

Shall we catch up following your site visit today? Do you want to give me a call, when you are available?

Cheers,

Jane



1 – 4 South Park Court

Member of the Development Control Committee High Peak Borough Council Buxton Town Hall Market Place Buxton Derbyshire SK17 6EL

Macclesfield Cheshire SK11 8BS

**Hobson Street** 

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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.

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#### 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 deign 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

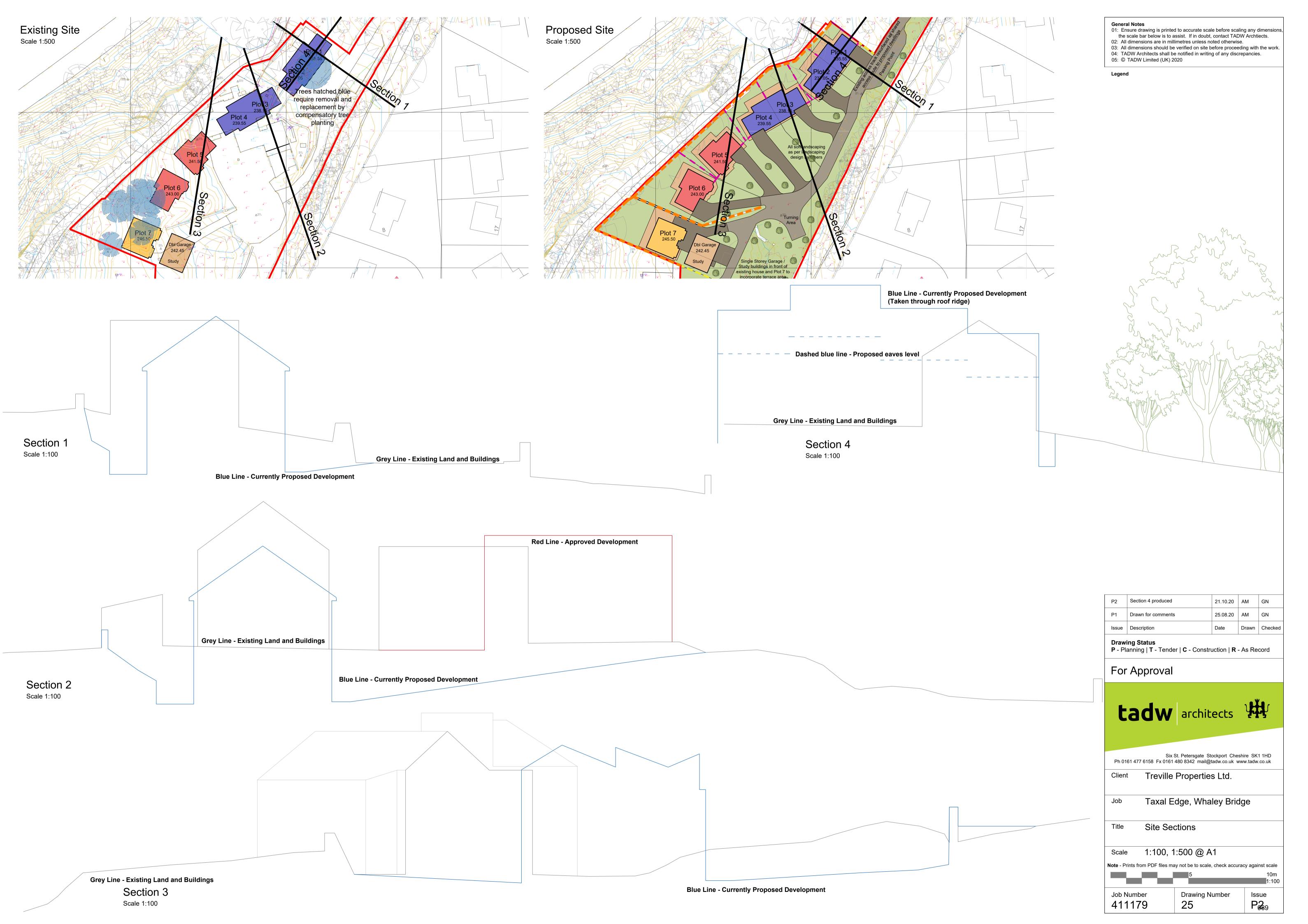
Rawdon Gascoigne BA (Hons), MRTPI Director

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

Site sections









Ms Rachael Simpkin
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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

# HIGH PEAK BOROUGH COUNCIL DEVELOPMENT CONTROL COMMITTEE

## 5<sup>th</sup> October 2020

<b>Application No:</b>	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		
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## 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 18<sup>th</sup> September 2020. Objections or comments are due to be received by the 23<sup>rd</sup> 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?PKI D=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 semidetached 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

Consultee	Comment	Officer response
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.

## 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 <u>DeveloperServicesWater@uuplc.co.uk</u>
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 <a href="mailto:wastewaterdeveloperservices@uuplc.co.uk">wastewaterdeveloperservices@uuplc.co.uk</a> 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

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	Conditional Response	
Trust			

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

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

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**

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.

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.

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.

Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.

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.

There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.

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.

The proposed level off-street parking provision is considered to be acceptable.

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 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	Environmental	Awaited	Updated to be provided
Health			via the Update Sheet

#### 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:
  - 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

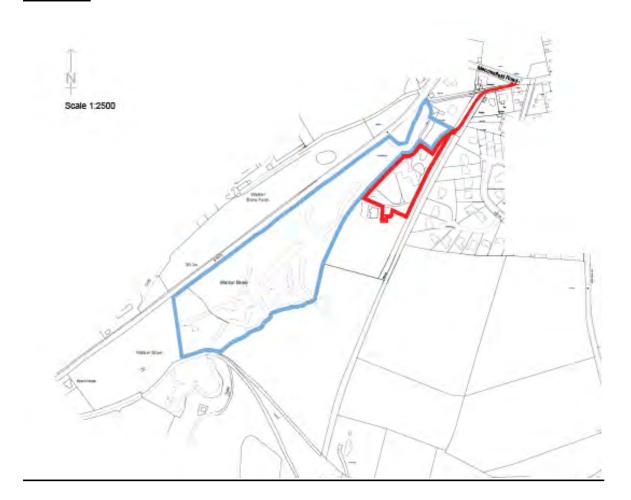
ensure that healthy, mature trees and hedgerows are retained and integrated within the proposed development. As a consequence the proposal fails to accord with Policy EQ9 of the Adopted High Peak Local Plan and the National Planning Policy Framework.

- 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)

 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



# 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 16<sup>th</sup> 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 18<sup>th</sup> September 2020. Objections or comments are due to be received by the 23<sup>rd</sup> 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 5<sup>th</sup> October 2020 Development Control Committee. On the 1<sup>st</sup> 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?PKI D=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 semidetached 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.

## **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

Consultee	Comment	<u>Officer</u>
		response
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 <a href="mailto:wastewaterdeveloperservices@uuplc.co.uk">wastewaterdeveloperservices@uuplc.co.uk</a> 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

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	Conditional Response	
Trust			

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 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 Park	District	National	Awaited	Members updated Update Sh	via	be the
DCC Office	Urban r	Design	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, halftimber 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

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

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**

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.

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.

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.

Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.

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.

There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.

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.

The proposed level off-street parking provision is considered to be acceptable.

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 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	Environmental	No objections	
Health		-	

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
- 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 Aboricultural Officer on the 30<sup>th</sup> 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:
  - 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

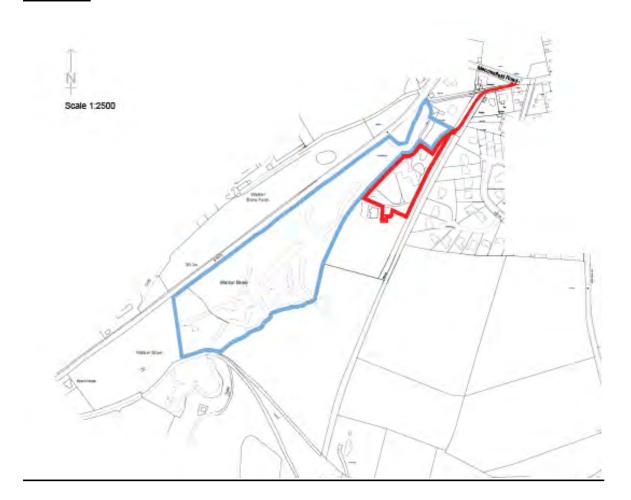
- A. That DELEGATED AUTHORITY be granted to the Head of Development Services and the Chair of the Development Control Committee to add additional reasons for refusal if necessary with regard to outstanding Peak District National Park consultations and planning permission be REFUSED as follows:
- 1. The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



### **Public Document Pack**

### **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 D Lomax (Vice-Chair)

Councillor A Barrow
Councillor C Farrell
Councillor G Oakley
Councillor P Roberts
Councillor J Todd
Councillor S Young
Councillor Councillor S Young

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#### 9<sup>th</sup> 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 Aboricultural 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 58378:2012 tree report has been provided and the proposals have been assessed in the light of this and the site visit of 15/10/2020

#### **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 woodled 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 \$106\$ 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 Councils 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 Counsel'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 <u>all</u> 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 that 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 (<u>although it should not be assumed that the whole of the curtilage should be developed</u>) 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 rial 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 propose 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.

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

No update.

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### IN THE MATTER OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

# Planning and Enforcement appeals reference APP/H1033/W/21/3272745 & APP/H1033/C/22/329785

Site: Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, Derbyshire, SK23 7DR

I, Mr Raymond Butler of Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, Derbyshire, SK23 7DR, do solemnly and sincerely declare as follows:

I completed the purchase of Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR (Title no. DY413836) on 28th March 2007, purchased off The Together Trust Ltd (Company No. 301722). I moved into Taxal Edge in 2007.

I sold what is currently being referred to as 'The former Classroom Block' Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR and associated grounds (Title No. DY515418) to Mr Gary Stephen and Mrs Gail Cullen with the transaction completing on 31/03/2016

On the 30/08/2019 I completed the sale of the main building, garage and remaining associated grounds of Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR (Title no. DY413836) to Treville Properties Ltd. Upon completion of the sale I continued to lodge at the main house within one of the apartments.

I appointed Peter Dalton BA(Hons) MRTPI (now deceased), to act for me in relation to obtaining planning for me at Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR. He dealt with the vast majority of aspects of obtaining the different permissions and the discharges of conditions throughout my ownership.

The first planning application made by Mr Dalton (dec'd) was HPK/2008/0069, 'Change of use of the building and property of Taxal 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'. Included Exhibit A Location Plan. Permission was granted 31/03/2008. Condition 3 of the planning permission required the submission of a curtilage plan for the LPA's approval. I recall Mr Dalton discussing this with me and that the same location plan used for the application was also submitted to discharge that condition.

In 2009, Mr Dalton submitted another planning application instructed by my company Palmerston Properties (NW) Ltd 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', application HPK/2009/0689. Permission was granted 29/03/2010 and I was advised by the late Peter Dalton, that all conditions had been discharged and work could commence. As regards to the access road to Taxal Edge planning condition, myself and my architect Mr P Dalton had a meeting with Mr Ian Turkington back in 2012 at the said address and discussed the matter in which Mr Turkington suggested that he would contact Mr Chris Allwood to get Derbyshire highways to carry out the work to address this condition, to which we agreed at a cost of around £100.00. I was advised by Mr Dalton that he had contacted Mr Turkington and been assured it was all underway. As for the condition blocking the side road from the garage, a fence was erected which was later inspected and approved by DCC. All correspondence in this matter was dealt with by my architect Mr P Dalton.

I can confirm that planning application reference HPK/2009/0689 included existing and proposed plans of the classroom conversion at Taxal Edge, which were quite basic with minimal detail shown, as everything was already in situ. The existing and proposed drawings were the same as no significant changes were required to the building and I was able complete the approved conversion 64 and move in with my partner and my son within a few months of permission being granted. The

planning officer at the time questioned what we were doing with the windows and confirmed that either timber or aluminium would be suitable replacements, however it was my preference to keep the modular windows in that were already there which I explained to her. The only windows shown to be changed under that planning permission were on the garage building. In 2014 me and my partner vacated the property and moved into a flat in the main building leaving my two sons Ray William Butler and Jason Thomas Butler in the converted former classroom block.

Towards the end of 2015 the roof on the classroom conversion was in very poor condition and in need of repair. I had also noticed a crack appear in one of the supporting pillars. As the roof would require a complete overhaul and works were now needed to the pillar, I opted to have some storage space added and a natural stone outer leaf put on to both improve the outer appearance, quality and insulation. It was at this point I contacted Gary Cullen to discuss options and get a price for the works. Following this discussion I immediately instructed them to complete the works to the roof which included a slight increase in the pitch so that I could get some loft storage space, along with works to the cracked pillar and adding the outer leaf including replacement windows, it was during these works where discussions started with Gary Cullen about him buying the property and some grounds for garden. Upon agreeing a price for the sale and the extent of grounds, I instructed works to stop and informed Mr Cullen I was happy for him to continue any works he wanted to do but it was at his own cost and his own risk in the event completion of the sale didn't happen. The transaction of the sale completed on 31/03/2016. Shortly after completion both my sons vacated the home, with one son moving back into the main building. In any event, Mr Cullen completed the works to the roof by early November 2017 which I recall as I continued to live at site in the main building.

I understand that Exhibit B attached to this statement was introduced by HPBC at a hearing in relation to a planning appeal at Taxal Edge earlier this year. The drawing is of the east elevation of the former classroom block and shows a door and steps to the ground floor. I can confirm that during my ownership of Taxal Edge the east elevation of the former classroom block has never had a door or steps within it so Exhibit B is an untrue representation of the building. It had two large modular windows and a smaller fixed window to both the ground floor and first floor as demonstrated by plate 4 in exhibit C (Exhibit C – design and access statement for HPK/2009/0689 drawn up by the late Mr Peter Dalton as part of the planning application).

I can also confirm that during my ownership I started the conversion of the main building into 7 apartments (flat one being complete by 2013 minus the final sign off), along with the creation of the access track and car park, and works on the garage conversion to list just a few. In September 2013, my agent Mr Dalton submitted an application to vary permission reference HPK/2009/0689 to allow for the conversion of the main building at Taxal Edge into 5 apartments instead of 7 apartments and to provide for the construction of 2 new semi-detached houses within the grounds of the building. However, I was advised by Mr Dalton that the LPA had declined to validate that application as it considered that it could not be dealt with as an amendment to HPK/2009/0689 and instead should be a new application. In a letter to Mr Dalton (at Exhibit D), the LPA advised that if the conversion of the garage and classroom block to dwellings had already started then HPK/2009/0689 had been implemented and those elements of the development should not be included in the red line for the new application. As a result of the LPA's advice, I asked Mr Dalton to remove the garage and classroom block from the application which was submitted in 2013 (reference number HPK/2013/0503). Following approval of that application and as result of the previous advice from the LPA, it was my understanding that once the conditions for HPK/2013/0503 had been discharged and development commenced, I would be able to use that planning permission to convert the main building into 5 apartments and to construct a pair of semi-detached dwellings, while relying on permission reference HPK/2009/0689 to complete the garage conversion (the classroom conversion already being occupied at that time). 165

The gymnasium was demolished to make way for the semi-detached dwellings in approximately late

spring/ early summer of 2015 and the footings were constructed in approximately late summer 2015.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

FULL Name: RAYMOND BUTLER.

Signature: & Bulko

Date: 17/10/22.

Witness Full Name: LESLEY HELEN MIDDLETON

Signature: lester Middleton

Occupation: SOUCITOR

Date: 17 october 2022

Cooper Sons Hartley and Williams LLP Solicitors 25 Market Street Chapel en le Frith High Peak

Derbyshire SK23 0HS Tel: 01298 512138 Fax: 01298 815097 Email: chapel@cshw.co.uK Exhibit A: 2008 Stamped Location Plan

Exhibit B: Blueprint Drawing of the east elevation of the former classroom block.

Exhibit C: Design and Access Statement for HPK/2009/068, particular reference to Plate 4

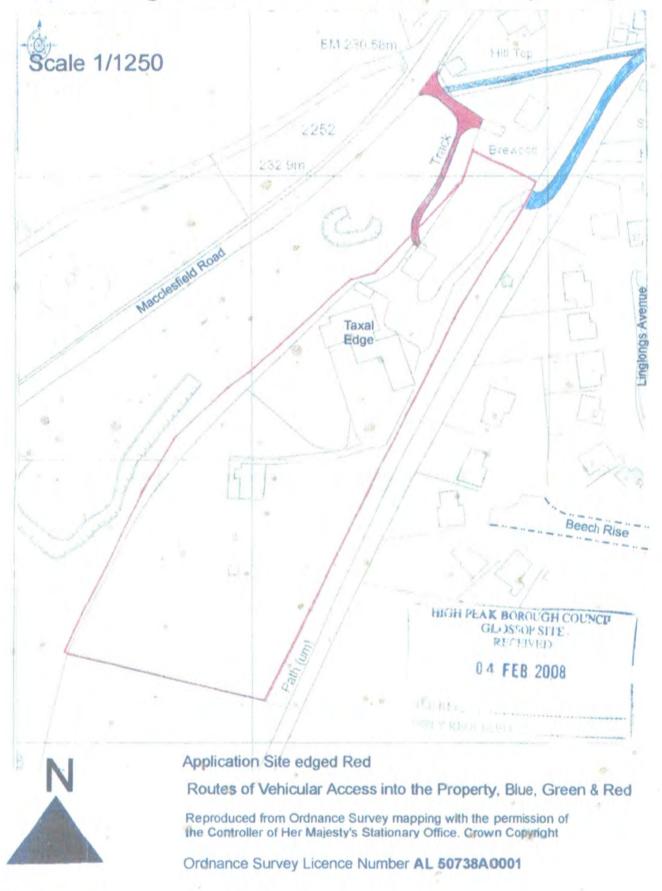
Exhibit D: Letter to Mr Dalton from LPA

Location Plan 1

lests Middleton

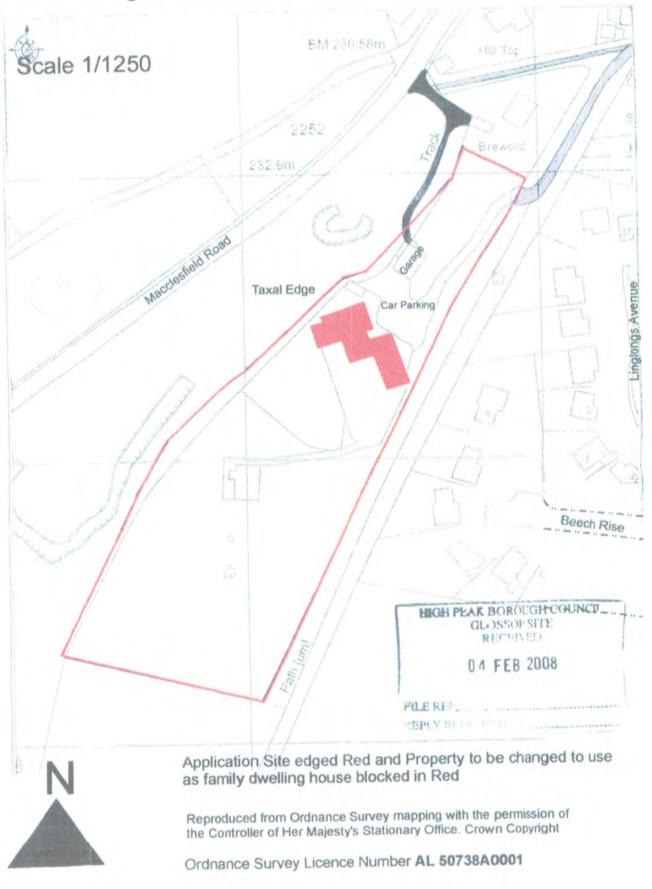
HPK/2008 / 006 9

## Taxal Edge, Macclesfield Rd., Whaley Bridge



# Location Plan 2

# Taxal Edge, Macclesfield Road, Whaley Bridge



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2009/0683

0.2 FE3 2010

DESIGN and ACCESS STATEMENT
Change of Use and Conversion of Taxal
Edge, Macclesfield Road, Whaley Bridge
from single dwelling into 7 residential
apartments, the change of use of a detached
teaching block building into a single 5
bedroom house and the conversion of a
detached garage into a single 2 bedroom
house.

by

Peter Dalton BA Hons. MRTPI, BSc Hons. Architectural Technology, MSc Technical Architecture

Character of the Application Buildings : (see Plates 1,2,3 & 3a) The principal building known as Taxal Edge is a large country residence standing in large grounds which was constructed in 1918. The character of the original house is of a style characteristic of (though later than) the large suburban houses of the late Edwardian period. The house is built of dressed, coursed stone with stone lintels sills to the door and window openings. The timber doors are also in the style of the period; of substantial and dense timber construction. The house was substantially extended during the inter-war period to provide a suite of rooms so that the then occupant's sister could live with her brother in keeping with the expectations of the period. The extension continued the style of the original house. During a period from 1969 until 2000 the building was used as a children's home and boarding accommodation in conjunction with the school for children with special needs at Taxal Lodge. There are a number of additions including the gymnasium building and several external fire escapes dating from this period. The additions made during the building's recent history will be removed (see Drawings Nos.09/358/01/02/03/04 and 05 and Plates 1,2,3 & 3a) 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.

Sustainability: The proposed development will meet several sustainability criteria. The proposed development represents the intensification of the residential use of an existing building which is already used as a residential building and the conversion of a further two substantial buildings. The proposed conversion will create 8 additional dwellings which might otherwise require the release of an additional green field site. Since the structures of the buildings are being preserved this will represent a conservation of the embodied energy represented by the construction of the original buildings both in terms of transport of building materials and the extraction and/or manufacture of the original building materials. The structure of the buildings is substantial with considerable thermal mass. The upgrading of the building fabric to meet modern requirements for the conservation of fuel and energy will be much more straightforward than would be the case with many volume builder's houses of the 1960's and 1970's including many houses still being constructed today. There are bus stops on Macclesfield Road at the junction with the access road to the site. There is a regular local bus service to the town centre and Macclesfield. The town centre, shops and services, town park and local primary school are within 'acceptable' walking distance and are otherwise accessible by conveniently available public transport.

Landscaping: A full tree survey of the trees that may be affected by the application has been undertaken by Neil Edmonson of Oak-Leigh Consulting and is attached to this The existing trees and landscape layout of the application site will remain largely unaffected (but see Tree Appraisal by Neil Edmondson for recommendations on woodland maintenance) not least because most of the

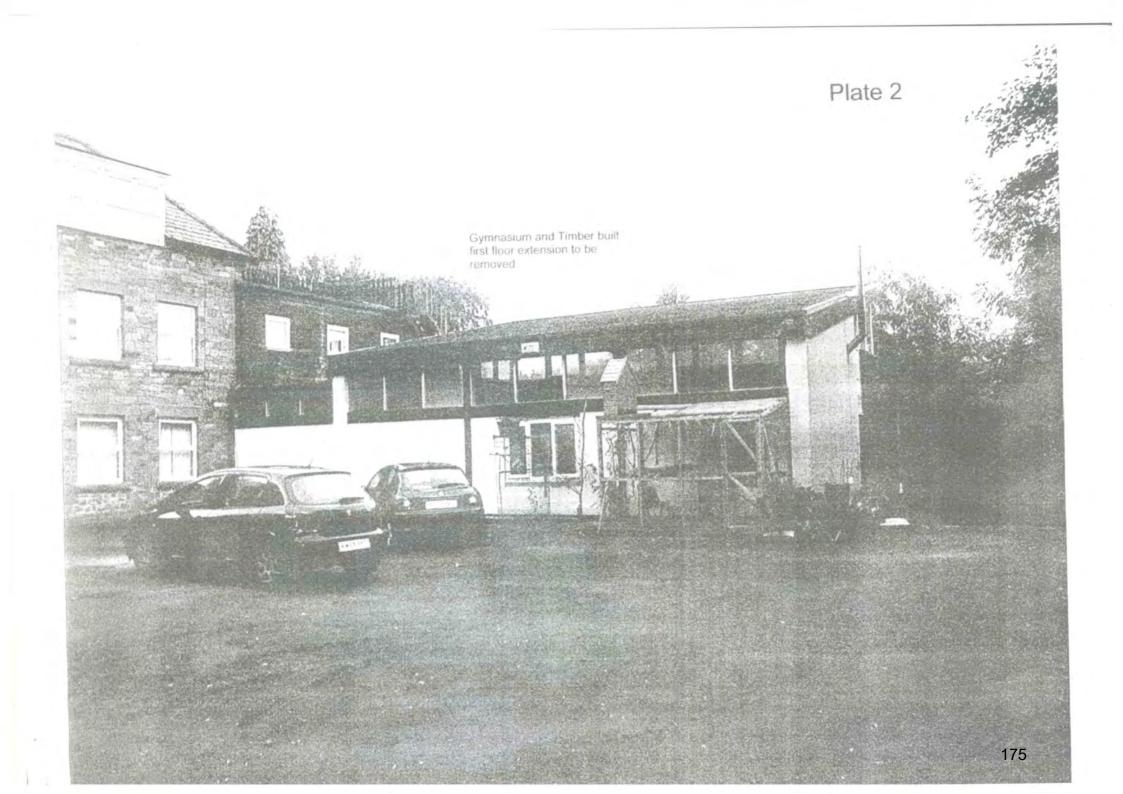
woodland surrounding the application building is covered by Derbyshire County Council Tree Preservation Order No. 175 The conversion of the buildings will generate revenue for the maintenance of the grounds and woodland

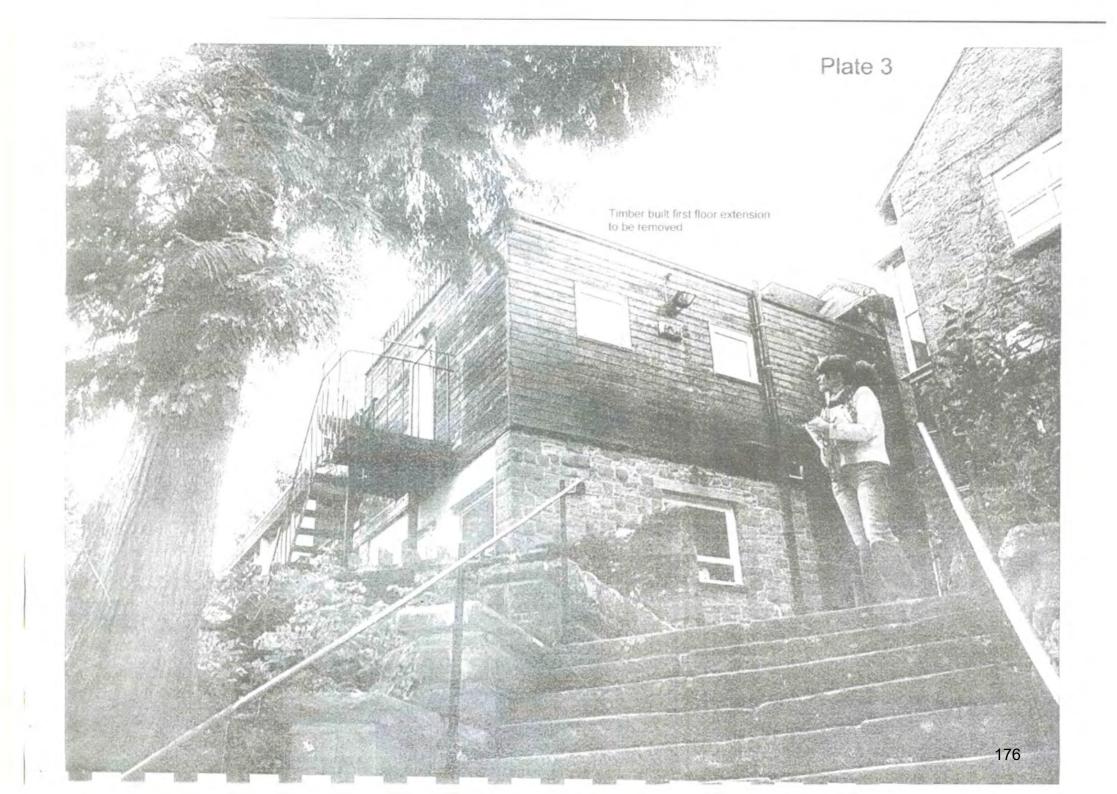
Appearance: With the exception of the demolition of the gymnasium and first floor timber clad extensions to Taxal Edge, the external appearance of the buildings will remain largely unaffected since the proposals concern the internal re-arrangement of the buildings using, in the case of Taxal Edge and 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.

Access and Parking Arrangements: The existing access road to Taxal Edge will continue to be used and the existing arrangements for the collection of domestic waste will continue in place. There is space within the site for at least 22 parking spaces (see Site Plan). There is no reason to believe that the existing access road, subject to any repairs and maintenance which will be required, is not perfectly capable of accommodating the additional traffic to the proposed development. The number of traffic movements may be significantly reduced in the long term by proximity to a local bus stop and regular bus service and by the fact that the town centre is within walking distance. An agreement has been negotiated with the Highway Authority (ref. Ian Turkington) for marginal improvements to the junction of the access road with Macclesfield Road B5470 to satisfy the requirements of Highway Safety.

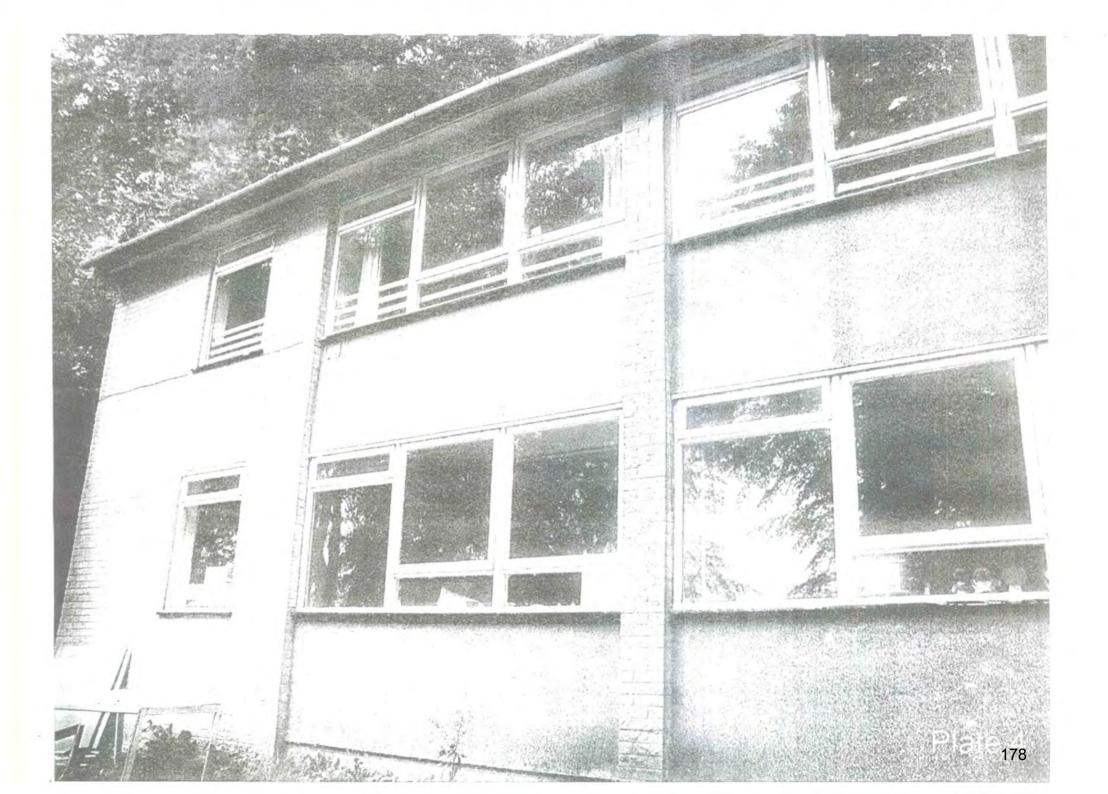
# Plate 1

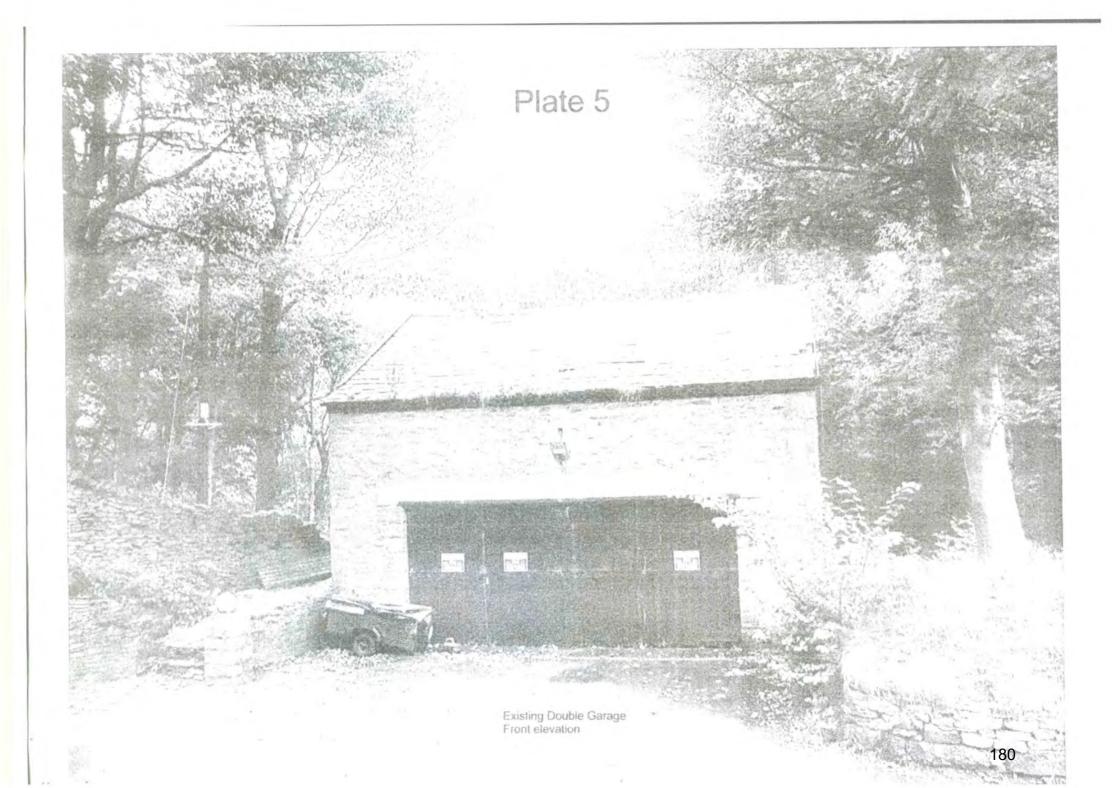


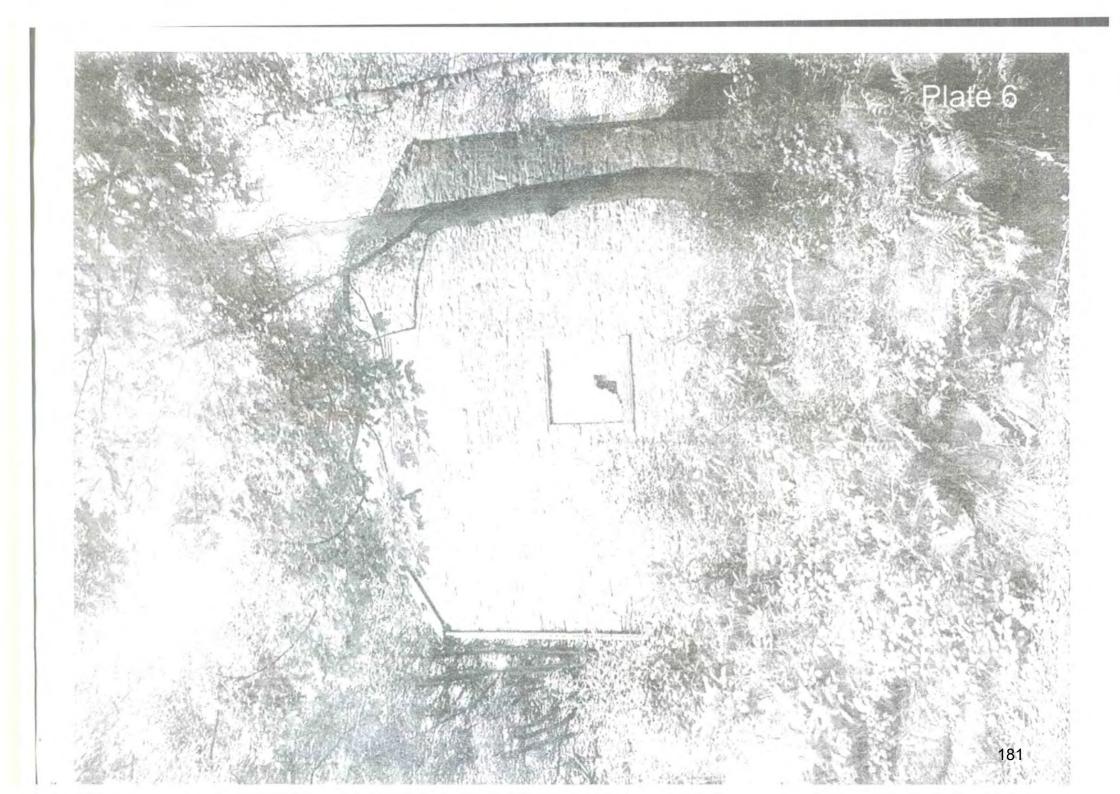












R Butter, less Middleton

My ref; HPK/2013/0503 9th September 2013

Mr Peter Dalton P D Dalton BA Hons. Dunelm MRTPI 53 Long Lane Chapel-En-Le-Frith High Peak SK23 0TA

Dear Sir/Madam

Validation of Application - Proposed Amendment to Planning Permission HPK/2009/0689 - Reduction from 7 to 5 Flats and the Construction of 2 Semi Detached Houses at 184 Taxal Edge Macclesfield Road, Whaley Bridge

Your application cannot be dealt with as an amendment to a previously approved application and must be dealt with as a new scheme; therefore a fresh application should be submitted.

Please can you confirm that your recent submission relating to the reduction in the number of apartments from 7 to 5 along with a proposed pair of semi detached houses in place of the gymnasium, only relates to the main building and attached gymnasium and does not include the dwellings proposed at either end of the site outlined in red.

If works have already started relating to HPK/2009/0689 for the conversion of the garage and classroom block to dwellings, the approved application has been implemented and therefore should not be included in the red outline on both the location and site plans you have submitted. Please could you amend the location plan and site plan to show only the building subject to this application, outlined in red and all other sites/properties owned by the applicant should be outlined in blue.

The plans and supporting information you have provided for the latest application, reference HPK/2013/0503, should not include any references made to previous applications for the site. Please can you remove all references made to previous applications from the application form, design and access statement, arboricultural survey, location plan and site plan.

N.B. We aim to validate all Planning Applications in accordance with "Best Practice Guidance on the Validity of Planning Applications" as issued by the Office of the Deputy Prime Minister, March 2005.

www.odpm.gov.uk . ISBN 1 85112 7747 Ref: No 04PD02961.

182

As of 25th June 2013, a new combined agricultural holdings certificate and ownership certificate has replaced the previous certificates and unfortunately we can no longer accept the old certificates. Please find enclosed a copy of the new certificates for your completion and submission.

The fee required for your application is £2695.00.

When returning your application with the details requested please ensure you quote the reference number shown at the top of this letter.

If you require any more information please let us know by contacting the Planning Support team on 01298 28400.

Yours sincerely

Hayley Gallacher Planning Support 01298 28400 My ref: HPK/2013/0503 9<sup>th</sup> September 2013

Mr Peter Dalton P D Dalton BA Hons. Dunelm MRTPI 53 Long Lane Chapel-En-Le-Frith High Peak SK23 0TA

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www.odpm.gov.uk . ISBN 1 85112 7747 Ref: No 04PD02961.

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As of 25<sup>th</sup> June 2013, a new combined agricultural holdings certificate and ownership certificate has replaced the previous certificates and unfortunately we can no longer accept the old certificates. Please find enclosed a copy of the new certificates for your completion and submission.

The fee required for your application is £2695.00.

When returning your application with the details requested please ensure you quote the reference number shown at the top of this letter.

If you require any more information please let us know by contacting the Planning Support team on 01298 28400.

Yours sincerely

Hayley Gallacher Planning Support 01298 28400

# EP7

#### IN THE MATTER OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

# Planning and Enforcement appeals reference APP/H1033/W/21/3272745 & APP/H1033/C/22/329785

Site: Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, Derbyshire, SK23 7DR

- I, Mr Gary Stephen Cullen of Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, Derbyshire, SK23 7DR, do solemnly and sincerely declare as follows:
  - 1. I am a project manager for Treville Properties Ltd which is my son's company.
  - 2. I with my wife Gail Cullen, completed on the purchase of what is being referred to as 'The former Classroom Block', Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR, Title Number DY515418 on 31/03/2016 (Exhibit A). The property was purchased as a family residence in need of refurbishment and it was understood that the conversion of the building had already been completed by Mr Butler when we purchased the property. Mr Butler had moved in there sometime in 2010 with his family and then his sons continued to live there until we completed the sale.
  - 3. I had previously come across Taxal Edge circa 2006 when Frank Marshall's estate agents had it on the market for sale but unfortunately the timing was not right for us. (Exhibit B).
  - 4. In circa 2013/2014 Raymond Butler was delivering concrete to one of the sites I was working on and during conversation he told me that some years earlier he had purchased the old convalescent home in Whaley Bridge and told me about what he had done and what he was working on. He invited me up to have a nosey round having known I had been previously interested in the place. I took him up on the offer and went up. I saw the main building where one of the flats to the ground floor had already been converted, and then we went up to what was the former classroom block which he had converted into a dwelling and where his sons were now living.
  - 5. During the course December 2015, I received a phone call from Raymond Butler asking if I could come up and have a look at the roof of the former classroom block as it had seen better days and needed an overhaul. He advised he was thinking that as it would already be quite a big job, he may as well make some other improvements by adding some loft storage space with velux windows, repairing some of the masonry, replacing the tired windows and possibly pricing up for adding a stone outer skin. I queried at the time whether this was part of the works needed for completion of the conversion under the existing planning but he confirmed that the conversion was completed over 4 years ago. He went on to explain that the windows would need to be powder coated aluminum as he was told if he changed the windows at any point, they must be replaced with either timber or powder coated aluminum. I provided a verbal quote on behalf of Treville Properties Ltd which Raymond Butler instructed us to go ahead with all works discussed.
  - 6. During the course of works which we being carried out to Mr Butler's instruction, I entered into discussions to buy the house and adjoining gardens. By the time a price and extent of gardens had been agreed, the works to add loft storage had been completed. It was at this point of agreeing terms of the sale that Mr Butler dis-instructed Treville Properties Ltd and advised me that if I wanted to complete the roof with final finishes, I could do so, but it would be at my own cost and risk should the sale fall through for any reason. I completed on the purchase shortly after this.

- 7. Upon completion, Mr Butler's sons vacated and I immediately moved in which allowed me to start renovating the property on the inside in an evening, and where daylight hours allowed, to work on various different external renovations. To the best of my knowledge and understanding the house benefitted from permitted development rights so I opted to have three dormer windows installed to the east elevation instead of continuing with my predecessor's plans of the Velux windows in this elevation. The dormers were intended to reflect the character of the main building at Taxal Edge which has had dormers present since at least circa 1946 see exhibit C.
- 8. The dormer windows were ordered and were fully installed and completed by 4<sup>th</sup> November 2017 (see exhibit D). Separately, the remaining windows were quoted on 24.11.2017 (see exhibit E). The old windows including the modular windows had to be removed due to damp and rot setting into the frames, so I opted for boarding the spaces up in preparation of installing the new windows. Unfortunately, due to events outside of my control the main windows incurred delays meaning the boarding remained in situ longer than wanted. Upon arrival these were installed. and the stone outer leaf finished off.
- 9. In August 2018 Treville Properties Ltd completed on the purchase of the rest of Taxal Edge Title Number: DY413836 (Exhibit F). Upon completion Mr Butler continued to lodge in an apartment there. Taxal Edge was purchased on the understanding that there remained a valid planning permission to develop the main house for apartments and to convert the garage and construct a pair of semi detached houses in the grounds.
- 10. In conjunction with Treville Properties Ltd routine tree reports have been carried out and advice of the tree surgeons followed. In June 2020, with consent an emergency tree fell was carried out on T4 and replacement oak trees planted. Exhibit G shows the internal condition on the tree.
- 11. In March 2020 Treville Properties Ltd applied for pre planning advice at Taxal Edge, 184 Macclesfield Road ref PAD/2020/0009 for 6 semi detached and 2 detached houses. Unfortunately, nothing came of the application, so after Covid struck, a decision was made to submit a full planning application for 'Demolition of the existing building known as Taxal Edge and the detached garage building and the erection of 7 no. dwellings' which was validated on 24<sup>th</sup> July 2020.
- 12. On the 18<sup>th</sup> September 2020 a temporary TPO order 2020 No294 for the wider application site came into temporary force which was later lifted.
- 13. It first came to my attention that High Peak Planning had concerns about unauthorised works to the conversion via their October 2020 committee report (Exhibit H). The November committee report was then released which expressed concerns that the conversion appeared to represent a new build and the planning officer confirmed the status of the consents was being investigated by the enforcement team (Exhibit I). Counsel's opinion was sought on both committee reports and on both occasions committee members were provided with a copy. In the following months in light of the committee reports myself and Treville Properties anticipated hearing from the enforcement team so that they could access the buildings and ask any necessary questions. As we hadn't heard anything come February 2021 a Freedom of Information Request was made to try and establish the position. It was even clearer via the April 2021 committee report that there were concerns about the building works undertaken on the conversion representing a new build and not the conversion scheme. In Section 3.3 the officer clearly stated that the detached dwelling to the south elevation of the site was the subject of an enforcement investigation – see exhibit J. As I still wasn't in receipt of anything from the FOI request and still hadn't heard anything from the enforcement department, in May 2021 I tried to reach out to them via email in which Mike Darling confirmed receipt only and that it required a formal response from the council's principal planning and enforcement officer Jane Colley but I heard nothing further from them – exhibit K. In December 2021 we finally received some information from the FOI request but nothing that showed any form of any investigations relating to Taxal Edge. Given all of this and the lack of response to any enquiries made regarding an enforcement investigation at Taxal

Edge, I cautiously assumed that the enforcement department must have been satisfied that no questioning or further action was required. That was until day 1 of the hearing for the planning appeal in March 2022 where new evidence was introduced by the council which were old undated drawings of the former classroom block (exhibit L). The East elevation drawing wasn't accurate as there had been no door or stairs to that elevation during the times I had visited the site, nor at the time I made enquiries with Frank Marshalls Estate Agents (Exhibit B). The hearing was stopped following the introduction of this evidence and moved to a Public Inquiry. This resulted in significant costs to Treville Properties with no decision in place and further delays incurred. A date for the Public Inquiry was then set for 13<sup>th</sup> September 2022.

- 14. On 31st March 2022, an Enforcement Notice was received by myself and my wife. An appeal was immediately lodged. As a result of this and the allocated Inspector not being suitably qualified to deal with both the enforcement appeal and S78, the public inquiry needed to be pushed back to a later date.
- 15. Towards the end of April 2022 Mr Butler contacted me to advise he had received an email from enforcement requesting access to the building. Treville Properties arranged a date to meet with officers at Taxal Edge. During the meeting, Jane Colley and Mike Darling (standing in for Andy Thomas) were invited to also look at the garage and the external of the classroom block whilst they were in attendance. During discussions Jane Colley confirmed that she couldn't deny that she was stood in flat 1 as per the approved drawings.
- 16. Following the meeting Treville Properties emailed Jane Colley et al to enquire whether she was satisfied that HPK/2009/0069 was extant and to also request copies of the drawings for the classroom conversion which during the meeting she was quite adamant she had seen. Upon further questioning via email to Jane Colley and Ben Haywood (Head of Planning and Enforcement) it came to light that the 2009 drawings referred to were exhibit H. Exhibit M is a copy of the email communications following the enforcement visit which were sent to try and better understand what the situation presently was and what happened to the investigations referred to within the committee reports. Following failure to respond to the final questions a further FOI was submitted to try and better understand the process and findings resulting in the notice see exhibit N.

17. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Full Name:

Signature:

Date:

Witness Full Name:

Signature:

Occupation:

Date: 21/10/27

ALAN BERRY SRA No. 146725 Solicitor Salehs Solicitors Didsbury House

748 Wilmslow Road
Didsbury

Manchester M20 2DW

#### **Exhibits:**

Exhibit A: Copy of Title Number DY515418

Exhibit B: Copy of Frank Marshalls Sales Particulars from when they were marketing the

property Circa 2006.

Exhibit C: Old Photographs of the main building showing the dorma window

Exhibit D: Photo of The completed dorma windows on the east elevation of the former

classroom block

Exhibit E: Quote – Alexander Windows

Exhibit F: Copy of Title Number DY413836

Exhibit G: Images of Felled Tree (T4)

Exhibit H: October 2020 Committee Report

Exhibit I: November 2020 Committee Report

Exhibit J: April 2021 Committee Report

Exhibit K: Emails To Enforcement/ Jane Colley

Exhibit L: Drawings of the former classroom block introduced on day 1 of the planning

application hearing.

Exhibit M: Email communications following the enforcement visit made by Jane Colley and

Mike Darling.

Exhibit N: Copy of information received under FOI request made 14/07/2022 relating to

HPC/2022/0037 and HPE/2019/00014

ALAN BERRY

SRA No. 146725

Solicitor

Salehs Solicitors

Didsbury House

748 Wilmslow Road

Didsbury

Manchester M20 2DW

## Exhibit A

ALAN BERRY SRA No. 146725 Solicitor Salehs Solicitors Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

Title Number: DY515418

This title is dealt with by HM Land Registry, Nottingham Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 2 NOV 2020 at 11:30:20 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

#### REGISTER EXTRACT

Title Number	: DY515418
Address of Property	: Land at Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak (SK23 7DR)
Price Stated	: £250,000
Registered Owner(s)	: GARY STEPHEN CULLEN and GAIL CULLEN of Elmwood House, Church Lane, New Mills, High Peak SK22 4NP.
Lender(s)	: Alan Mark Seddon Linda Seddon

#### Title number DY515418

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 2 NOV 2020 at 11:30:20. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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### A: Property Register

This register describes the land and estate comprised in the title.

DERBYSHIRE : HIGH PEAK

- (11.04.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak (SK23 7DR).
- 2 (11.04.2007) There are excluded from this registration the mines and minerals excepted by a Conveyance of the land in this title dated 6 March 1961 made between (1) Susan Dorothy Mostyn-Owen-Jodrell (2) John Dudley Robert Tarleton Tilney and Philip Brian Martineau and (4) Peter Quixano Henriques And Others.

NOTE: Copy filed under DY413836.

- 3 (11.04.2007) The Conveyance dated 6 March 1961 referred to above contains a provision as to light or air.
- 4 (15.08.2017) The land has the benefit of any legal easements granted by the Transfer dated 31 March 2016 referred to in the Charges Register but is subject to any rights that are reserved by the said deed and affect the registered land.
- 5 (15.08.2017) The Transfer dated 31 March 2016 referred to above contains a provision as to boundary structures.

### B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

#### Title absolute

- 1 (15.08.2017) PROPRIETOR: GARY STEPHEN CULLEN and GAIL CULLEN of Elmwood House, Church Lane, New Mills, High Peak SK22 4NP.
- 2 (15.08.2017) The price stated to have been paid on 31 March 2016 was £250,000.
- 3 (15.08.2017) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 31 March 2016 in favour of Alan Mark Seddon and Linda Seddon referred to in the Charges Register or their conveyancer.

### C: Charges Register

This register contains any charges and other matters that affect the land.

1 (15.08.2017) A Transfer of the land in this title dated 31 March 2016 made between (1) Raymond Butler and (2) Gary Stephen Cullen and Gail Cullen contains restrictive covenants.

#### Title number DY515418

### C: Charges Register continued

NOTE: Copy filed.

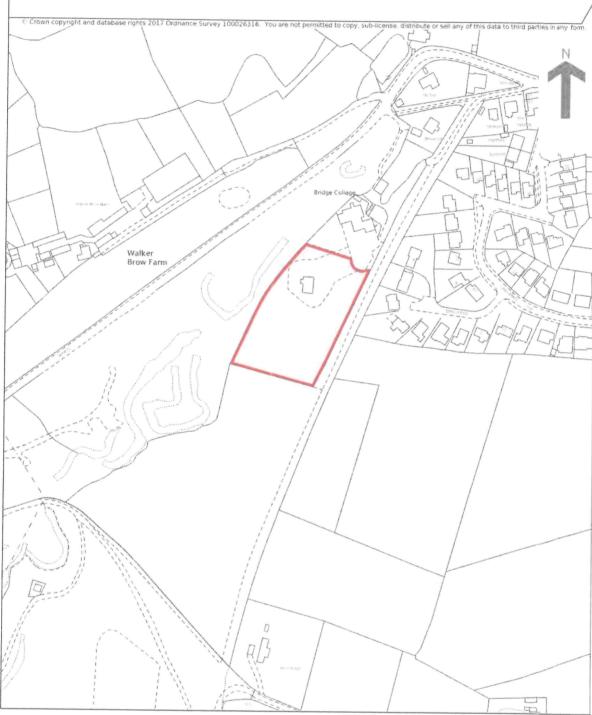
- 2 (15.08.2017) REGISTERED CHARGE dated 31 March 2016.
- 3 (15.08.2017) Proprietor: ALAN MARK SEDDON and LINDA SEDDON of 7 Pelton Fold Farm, Bury Road, Turton, Bolton BL7 OBS.

### End of register

# HM Land Registry Current title plan

Title number **DY515418**Ordnance Survey map reference **SK0080SW**Scale **1:2500**Administrative area **Derbyshire**: **High Peak** 





This is a copy of the title plan on 2 NOV 2020 at 11:30:20. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

# Exhibit B

A Som

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

WWW.frankmarshall.co.uk
MARSHALL

CHARTERED SURVEYORS

INDEPENDENT ESTATE AGENTS

### Whaley Bridge



Taxal Edge Whaley Bridge High Peak SK23 7DR

A most substantial stone built property on the western outskirts of Whaley Bridge, having been extended and formerly used as a childrens home. Taxal Edge occupies an elevated and wooded site amounting to 1.12ha (2.772 acres) or thereabouts. The property provided an excellent opportunity for redevelopment to a variety of uses subject to any necessary planning consent.

O.I.R.O. £450,000

8 The Quadrant • Buxton • SK17 6AW
Tel 01298 23038 • Fax 01298 72291 • E-mail buxton@frankmarshall.co.uk

#### SUMMARY

We are pleased to offer for sale to the open market this most substantial property built of natural stone under a slated roof and having the benefit of extension to provide a sports hall. Within the grounds is a further detached building used latterly as classroom accommodation.

The building provides a gross internal area on three floors of approximately 733 sq m (7890 sq ft) or thereabouts. In addition the detached classroom building provides a further 175 sq m (1880 sq ft) of floor area.

#### VIEWING

Strictly by appointment with the selling agents.

#### DIRECTIONS

On leaving Buxton on the A5002 you will approach the traffic lights at Horwich End, Whaley Bridge. Turn left here sign posted for Kettleshulme and continue up this road for about ½ mile. Just before the sharp bend in the road bear off to the left along a private road which leads to Taxal Edge. The property is identified by our 'For Sale' board.

#### ACCOMODATION

All measurements are approximate and are given for guidance only. Certain measurements have been scaled form plans provided to m.s.

#### GROUND FLOOR

Comprising the following rooms: Hall, office, two lounges, dining room, kitchen, utility store and laundry. Male and female toilet accommodation, pool room and sports hall (no access).

#### FIRST FLOOR

Comprising the following rooms: Conference room, office, ten bedrooms, three bathrooms, and three store rooms.

#### SECOND FLOOR

Comprising the following rooms: Lounge, three bedrooms, bathroom, kitchen and store.

#### **EXTERNALLY**

Double garage with loft over. Electricity meter room, boiler room and workshop.

Detached classroom building (no access).

Grounds amounting to 1.12 ha (2.772 acres) or thereabouts, and is part wooded, all as delineated on the plan appended hereto.

Prospective purchasers attention is drawn to Tree Preservation Order No 175 which affects the property.

#### SERVICES

All mains services are connected to the property.

#### PLANNING

Prospective purchasers are advised to make their own enquiries of the High Peak Borough Council Planning Department at Town Hall, Glossop. Tel: 0845 129 7777.

#### NOTES

- Prospective purchasers are advised that none of the appliances or equipment referred to have been tested and as such we are unable to comment on their condition.
- An approach has been made by the owner of the adjoining "Brewood" to purchase a section of land adjoining his property.



#### PLEASE NOTE:

Subjective comments in this description imply the opinion of the selling agent at the time the sales details were prepared and the opinions of purchasers may differ. All measurements are approximate. This description does not constitute part of any contract. No warranty is expressed or implied



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ith loft over, room, boiler room and workshop.

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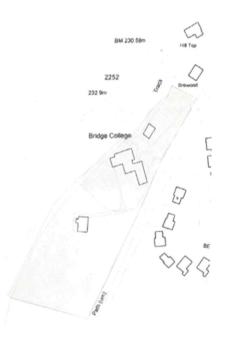
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PATER BAKER 85644 07745 185644 LINGHOOD AUS LINGHOOD AUS BASCU MISCU

PLEASE NOTE

PLEASE NOTE:

Subjective comments in this description imply the opinion of the selling agent at the time the sales details were prepared and the opinions of purchasers may differ. All measurements are approximate. This description does not constitute part of any contract. No warranty is expressed or implied.



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Frank Marshall & Company: A brief guide to our services.

ESTATE AGENCY

Free market appraisals without obligation. We are a market leader in Estate Agency services and sell all types of property from cottages to modern and executive homes to country estates.

PROPERTY MANAGEMENT

Letting of Residential & Commercial property. Tenancy agreements. Rent reviews. Tenant selection. Why not let our comprehensive service help you avoid the pitfalls.

AGRICULTURAL DEPT.

Sale and Valuation of farms and country houses. Tenancy matters. Compulsory purchase and compensation. Planning and environmental matters. Quota sales and leasing. Agents for A.M.C

COMMERCIAL DEPT.

Sale and Letting of commercial, Retail and Industrial property. Rent reviews. Rating appeals. Valuations for security and balance sheet purposes.

PROFESSIONAL SERVICES

Valuation of property for Security, Probate, and C.G.T purposes. Structural Surveys. Home buyer reports. Building disputes etc.

**ANTIQUES** 

Valuation of antiques for Insurance, Sale and Probate purposes. Auction of antiques and household items.

AUCTIONEERING

At Chelford Auction Centre, we are one of the UK's leading livestock and machinery auctioneers, and conduct the UK's largest weekly horticultural sales.

For further information on any of the above services please feel free to contact us or visit our website at <a href="https://www.frankmarshall.co.uk">www.frankmarshall.co.uk</a>

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# Exhibit C

A Samo

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

Exhibit C:

Old Photos showing the main building at Taxal Edge, 184 Macclesfield Road, Whaley

Bridge, High Peak, SK23 7DR

Images 3 & 4 have been obtained from The Together Trust Archive.

Image 1 (below) obtained from Mennonite Heritage Archives, Website: <u>Taxal Edge Whaley Bridge Stockport, England - Mennonite Archival Information Database (mhsc.ca)</u>

Title:

Item 20.0 - Taxal Edge Whaley Bridge Stockport, England

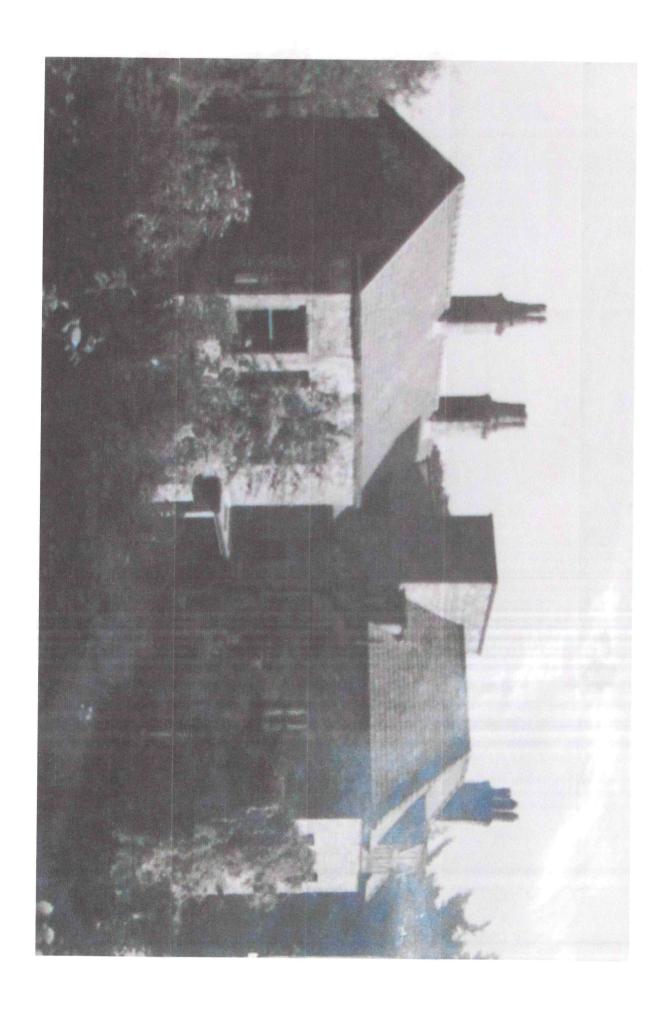
Reference code:

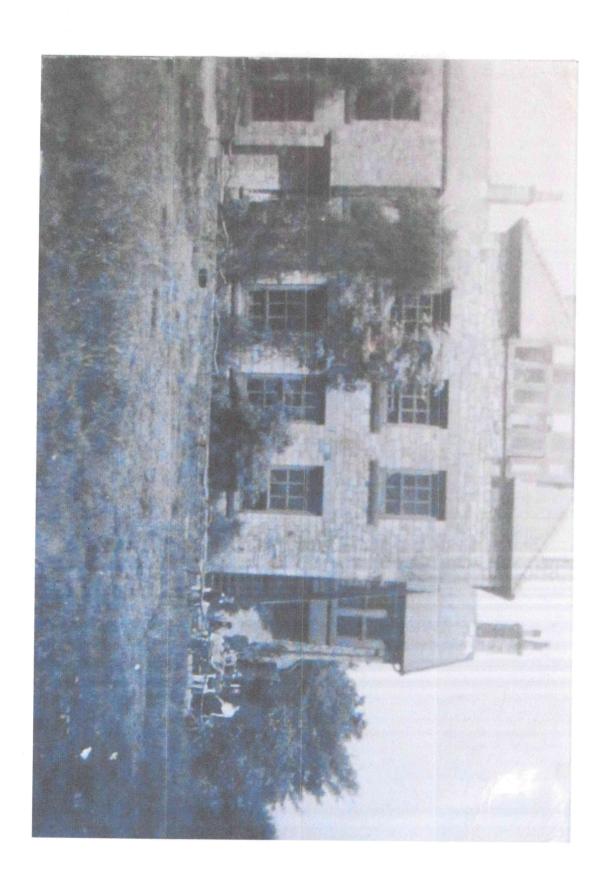
CA MHC PP-Photo 528-20.0

Date(s)

[1946?] (Creation)







# Exhibit D

ALAN BERRY SRA No. 146725 Solicitor

Salehs Solicitors Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

#### **Exhibit D**

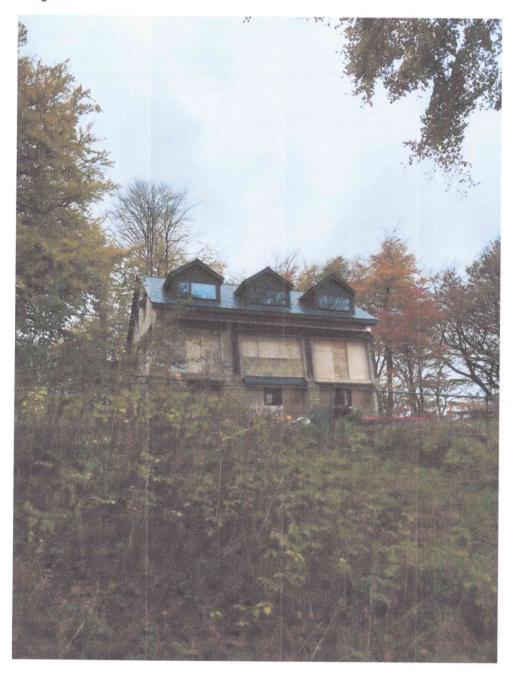
Photo of all three completed dorma windows on the former classroom block, Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR, Photo taken 4<sup>th</sup>

November 2017.

Image 2: Screenshot of image one with photo details including the date and time the photo

was taken and that the photo was taken on an Apple iPhone 6s

#### Image 1:



lmage 2:



# Exhibit E

ALAN BERRY SRA No. 146725

Solicitor

Salehs Solicitors

Didsbury House 748 Wilmslow Road

Didsbury Manchester M20 2DW Treville Properties Co Elmwood House Church Lane **New Mills** HIGH PEAK **SK22 4NP** 07768091993 01663 742555



Manufacturers of High Quality uPVC Windows, Doors and Conservatories

Supply Only Quotation / Contract

Quote No:201050 Contract No: 42 Newby Road Hazel Grove Stockport Cheshire SK7 5DA 0161 482 2323 Fax 482 2324

Alexander Windows Ltd

Prepared by Andrew Hardy

Job Reference:

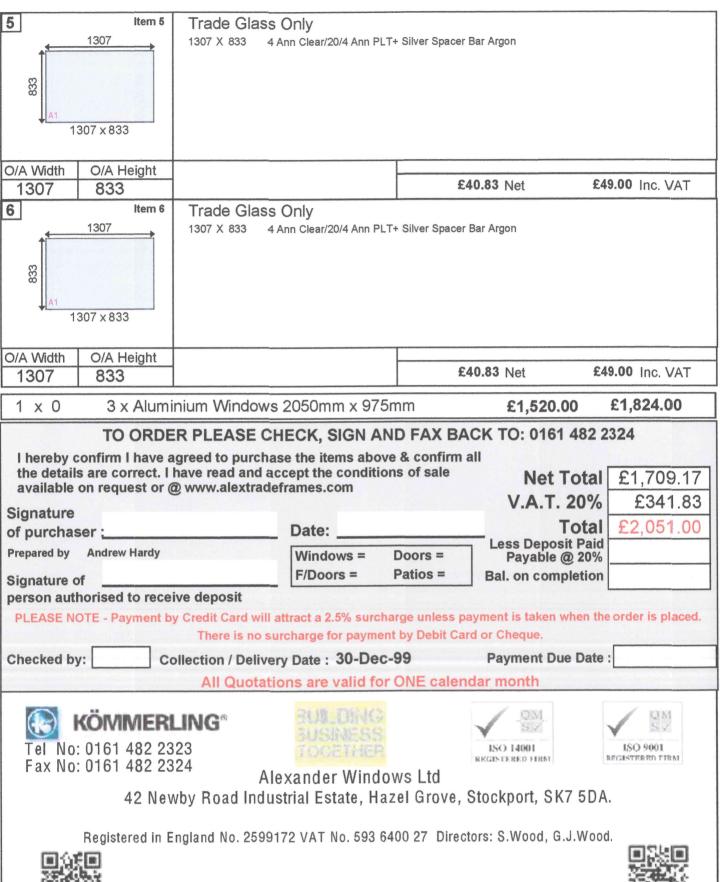
N.B. all items are viewed from the OUTSIDE

September 22, 2017 Drawing dimensions are overall sizes inc. cills and frame extenders.

NB: We only use internal sizes for the quotation and manufacture of bays, bows, porches & conservatories

All Window and Door Graphics along with lead and Georgian Glass layouts are representative only and subject to your confirmation

		are representative only and subj	ect to your confirmation	
1	533 Item 1	Trade Glass Only 533 X 743 4 Ann Clear/20/4 Ann PLT-	- Silver Spacer Bar Argon	
53	1 33 x 743			,
O/A Width 533	O/A Height 743		£21.67 Net	£26.00 Inc. VAT
2 743	533   Item 2	Trade Glass Only 533 X 743 4 Ann Clear/20/4 Ann PLT-		
O/A Width 533	O/A Height		£21.67 Net	£26.00 Inc. VAT
3 43	533 Item 3 33 x 743	Trade Glass Only 533 X 743 4 Ann Clear/20/4 Ann PLT-	Silver Spacer Bar Argon	
O/A Width 533	O/A Height 743		£21.67 Net	£26.00 Inc. VAT
<b>4</b> 888 A1	1307   Item 4	Trade Glass Only 1307 X 833 4 Ann Clear/20/4 Ann PLT-		
O/A Width	O/A Height		£40.83 Net	£49.00 Inc. VAT
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Scan these using QR code reader available as free download for your smartphone or iphone.

Map to find us

211

Doc 325 Page 2 of 2

Quote No:

Visit our website

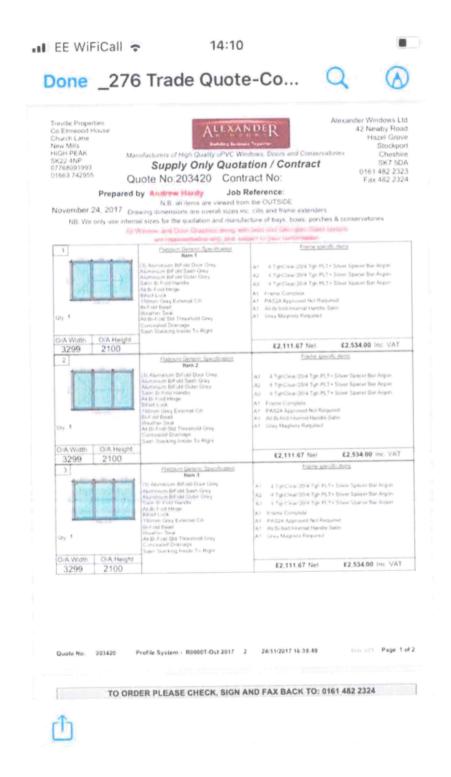
201050

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22/09/2017 11:58:35

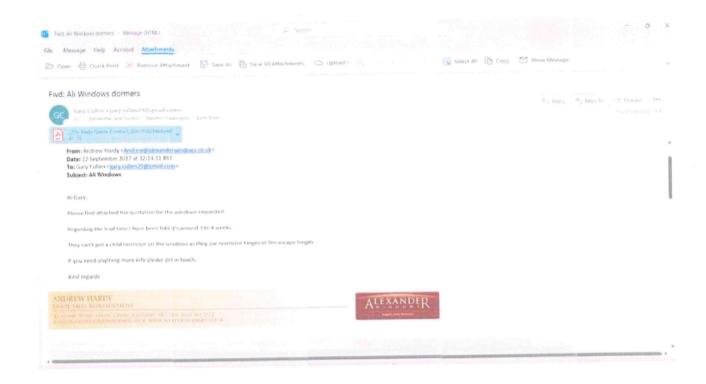
#### **Exhibit E:**

Copy of quote received from Alexander Windows for the remaining windows at the former classroom block, quote dated  $24^{TH}$  November 2017



#### **Exhibit E Continued:**

Copy of email from Alexander Windows confirming lead time for the windows (dormer windows) was 3-4 weeks along with a copy of the quote for the dormer windows.



# Exhibit F

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

Title Number: DY413836

This title is dealt with by HM Land Registry, Nottingham Office.

The following extract contains information taken from the register of the above title number. A full copy of the register accompanies this document and you should read that in order to be sure that these brief details are complete.

Neither this extract nor the full copy is an 'Official Copy' of the register. An official copy of the register is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy.

This extract shows information current on 2 NOV 2020 at 12:01:44 and so does not take account of any application made after that time even if pending in HM Land Registry when this extract was issued.

#### REGISTER EXTRACT

m111 - 2 1	
Title Number	: DY413836
Address of Property	: Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak (SK23 7DR)
Price Stated	: £775,000
Registered Owner(s)	: TREVILLE PROPERTIES LIMITED (Co. Regn. No. 05546647) of 184 Macclesfield Road, Whaley Bridge, High Peak SK23 7DR.
Lender(s)	: Seddon Investments Limited

### Title number DY413836

This is a copy of the register of the title number set out immediately below, showing the entries in the register on 2 NOV 2020 at 12:01:44. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

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# A: Property Register

This register describes the land and estate comprised in the title.

DERBYSHIRE : HIGH PEAK

- 1 (11.04.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak (SK23 7DR).
- 2 (11.04.2007) There are excluded from this registration the mines and minerals excepted by a Conveyance of the land in this title dated 6 March 1961 made between (1) Susan Dorothy Mostyn-Owen-Jodrell (2) John Dudley Robert Tarleton Tilney and Philip Brian Martineau and (4) Peter Quixano Henriques And Others.

NOTE: Copy filed.

- 3 (11.04.2007) The Conveyance dated 6 March 1961 referred to above contains a provision as to light or air.
- 4 (15.08.2017) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.
- 5 (15.08.2017) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.
- 6 (15.08.2017) The land has the benefit of any legal easements reserved by a Transfer of the land edged and numbered DY515418 in green on the title plan dated 31 March 2016 made between (1) Raymond Butler and (2) Gary Stephen Cullen and Gail Cullen but is subject to any rights that are granted by the said deed and affect the registered land.

NOTE: Copy filed under DY515418.

# B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

## Title absolute

- 1 (17.09.2019) PROPRIETOR: TREVILLE PROPERTIES LIMITED (Co. Regn. No. 05546647) of 184 Macclesfield Road, Whaley Bridge, High Peak SK23 7DR.
- 2 (17.09.2019) The price stated to have been paid on 30 August 2019 was £775,000.
- 3 (17.09.2019) The Transfer to the proprietor contains a covenant to comply with the covenants in the Charges register and of indemnity in respect thereof.
- 4 (17.09.2019) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 30 August 2019 in favour of Seddon Investments Limited referred to in the Charges Register , or his conveyancer.

### Title number DY413836

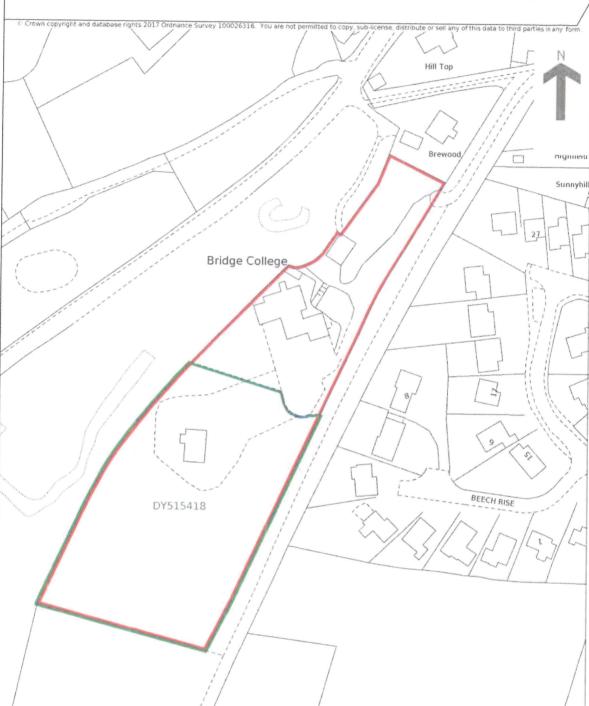
## C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (17.09.2019) REGISTERED CHARGE dated 30 August 2019.
- 2 (17.09.2019) Proprietor: SEDDON INVESTMENTS LIMITED (Co. Regn. No. 10257546) of Arden Lea, 470 Chorley New Road, Bolton BL1 5AZ.

End of register





This is a copy of the title plan on 2 NOV 2020 at 12:01:44. This copy does not take account of any application made after that time even if still pending in HM Land Registry when this copy was issued.

This copy is not an 'Official Copy' of the title plan. An official copy of the title plan is admissible in evidence in a court to the same extent as the original. A person is entitled to be indemnified by the registrar if he or she suffers loss by reason of a mistake in an official copy. If you want to obtain an official copy, the HM Land Registry web site explains how to do this.

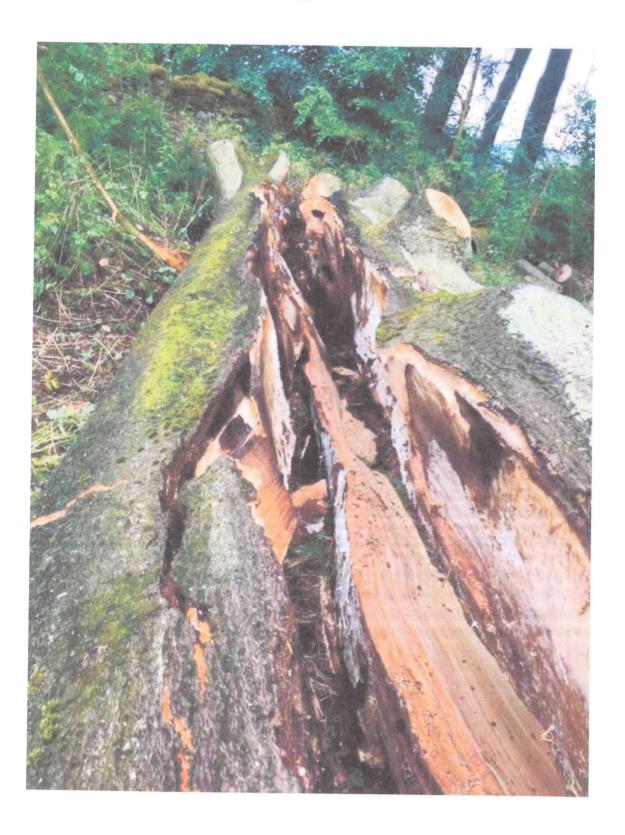
HM Land Registry endeavours to maintain high quality and scale accuracy of title plan images. The quality and accuracy of any print will depend on your printer, your computer and its print settings. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

# Exhibit G

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

### Exhibit G:

June 2020 an emergency tree fell application was approved by Derbyshire County Council. Images below show the internal condition of the tree.







# Exhibit H

Alban.

ALAN BERRY SRA No. 146725 Solicitor Salehs Solicitors Didsbury House 748 Wilmslow Road Didsbury Manchester M20 2DW

# HIGH PEAK BOROUGH COUNCIL DEVELOPMENT CONTROL COMMITTEE

#### 5th October 2020

<b>Application No:</b>	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	
	estion about this report highpeak.gov.uk 01538 3	please contact: Rachael Simpkin 95400 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 18<sup>th</sup> September 2020. Objections or comments are due to be received by the 23<sup>rd</sup> 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 semidetached 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

Consultee	Comment	Officer response
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 <a href="mailto:DeveloperServicesWater@uuplc.co.uk">DeveloperServicesWater@uuplc.co.uk</a> 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 <a href="mailto:wastewaterdeveloperservices@uuplc.co.uk">wastewaterdeveloperservices@uuplc.co.uk</a> 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

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 Wildli 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 Officer	Urban	Design	Objection	Via trie Opdate Srieet

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

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

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**

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.

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.

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.

Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.

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.

There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.

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.

The proposed level off-street parking provision is considered to be acceptable.

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 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  $2.4 \text{m} \times 5.5 \text{m}$  ( $2.4 \text{m} \times 6.5 \text{m}$  where located in front of garage doors) with an additional 0.5 m 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
			The the operate officet

### 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;
  - 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:
  - 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
  - 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

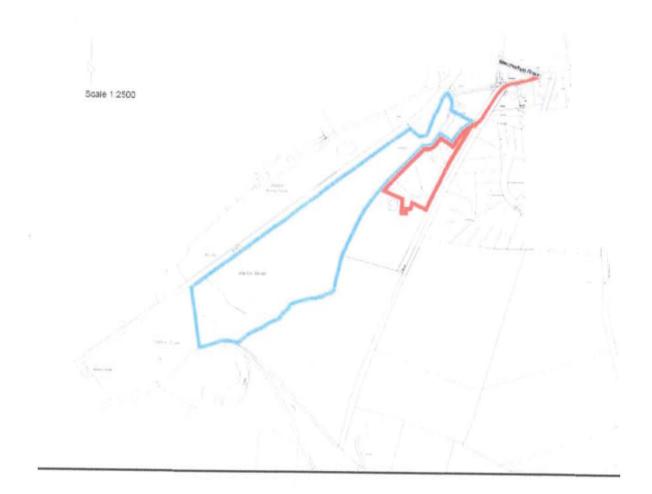
ensure that healthy, mature trees and hedgerows are retained and integrated within the proposed development. As a consequence the proposal fails to accord with Policy EQ9 of the Adopted High Peak Local Plan and the National Planning Policy Framework.

- 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)

 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



### Exhibit H:

Copy of October 2020 Committee Report with particular reference to page 1 & 2, section 2.4 & 2.5

# Exhibit I

ALAN BERRY

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# HIGH PEAK BOROUGH COUNCIL DEVELOPMENT CONTROL COMMITTEE

#### 14th November 2020

<b>Application No:</b>	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 que rachael.simpkin@		please contact: Rachael Simpkin

#### 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 18<sup>th</sup> September 2020. Objections or comments are due to be received by the 23<sup>rd</sup> 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?PKI D=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 semidetached 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

Consultee	Comment	Officer
AES Waste	No Objection	response

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 <a href="mailto:DeveloperServicesWater@uuplc.co.uk">DeveloperServicesWater@uuplc.co.uk</a>

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 <a href="mailto:wastewaterdeveloperservices@uuplc.co.uk">wastewaterdeveloperservices@uuplc.co.uk</a> 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

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	Conditional Response	
Trust	SECTION OF STREET	Let Did amman 1997 (1994) Print Gardin million 19° El Lidde Politicia ₹ 1.579 (1994) Print Collection	

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 (ECoVV) 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 Park	District	National	Awaited	Members will be updated via the Update Sheet
DCC Officer	Urban	Design	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

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

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

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.

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.

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.

Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.

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.

There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.

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.

The proposed level off-street parking provision is considered to be acceptable.

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 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	Environmental	No objections	
Health			

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
- 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:

- 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 Aboricultural Officer on the 30<sup>th</sup> 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:
  - 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

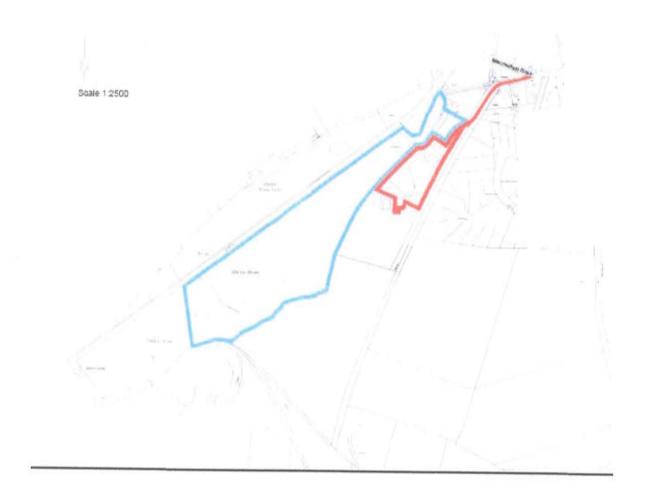
- A. That DELEGATED AUTHORITY be granted to the Head of Development Services and the Chair of the Development Control Committee to add additional reasons for refusal if necessary with regard to outstanding Peak District National Park consultations and planning permission be REFUSED as follows:
- 1. The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

 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



# Exhibit I:

Copy of November 2020 Committee Report with particular reference to page 2 & 3, section 2.3, 2.6 & 3.3, Page 24 & 25 section 7.30

# Exhibit J

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

# HIGH PEAK BOROUGH COUNCIL DEVELOPMENT CONTROL COMMITTEE

# 19th April 2021

<b>Application No:</b>	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 que rachael.simpkin@	estion about this report highpeak.gov.uk 01538 39	please contact: Rachael Simpkin	

#### 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 18<sup>th</sup> September 2020. Objections or comments were due by the 23<sup>rd</sup> 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 23<sup>rd</sup> 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 5<sup>th</sup> October 2020 Development Control Committee. On the 1<sup>st</sup> 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:

#### 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 semidetached 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

Consultee	Comment	Officer response	
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.

Conditional Response	Refer	to	the
TO HARRO CHR. HOLLING	technic	al secti	on
	Conditional Response		Conditional Response Refer to technical secti

### 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. 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 <a href="mailto:DeveloperServicesWater@uuplc.co.uk">DeveloperServicesWater@uuplc.co.uk</a>

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 <a href="mailto:wastewaterdeveloperservices@uuplc.co.uk">wastewaterdeveloperservices@uuplc.co.uk</a> 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 technical design section	to /	the and layout
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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	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
		CONSCIVATION

section	

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

Guidar design	nce confi ated area	rms that but impact	this duty also applies to ing on its natural beauty.	proposals outside the
Peak Park	District	National	Awaited	Members will be updated via the Update Sheet
DCC Officer	Urban	Design	Objection	Refer to design /

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.

Officer		Refer to design ayout 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	1	1
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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	Refer to Section	Technical

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.

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.

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.

Ideally, passing opportunities between the proposed turning facility and Macclesfield Road should be demonstrated as being inter-visible.

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.

There would appear to be adequate controlled land to accommodate an internal shared driveway layout meeting current recommendations.

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.

The proposed level off-street parking provision is considered to be acceptable.

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 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  $2.4 \text{m} \times 5.5 \text{m}$  ( $2.4 \text{m} \times 6.5 \text{m}$  where located in front of garage doors) with an additional 0.5 m 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 Environmental No objections Health	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;
  - 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:-

 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 1<sup>st</sup> 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 refence to the building known as Taxal Edge, its garage, the 'former classroom' building and the associated parking, turning These are usefully shown on the Location Plan for ref. and access. 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 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 Aboricultural Officer on the 30<sup>th</sup> 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 Aboricultural 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 30<sup>th</sup> 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.

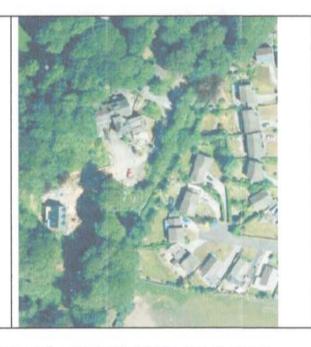
7.68 In relation to this permission, the D&A (Design & Access) states that: "In March 2008, planning permission was granted for a change of use from a children's home to a single dwelling (LPA ref: HPK/2008/0069). The building has been used as single dwelling since then". The September Counsel Opinion 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

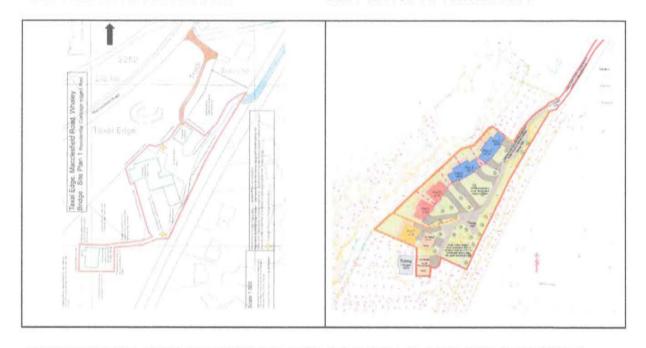


7.71 Officers have expressed their preference for the retention and renovation / reuse of the main building as was secured by the 2009 and 2013 permissions. In this way, the existing landscape setting and overall character of the site could be preserved. As opposed to the proposed scheme for the linear 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.

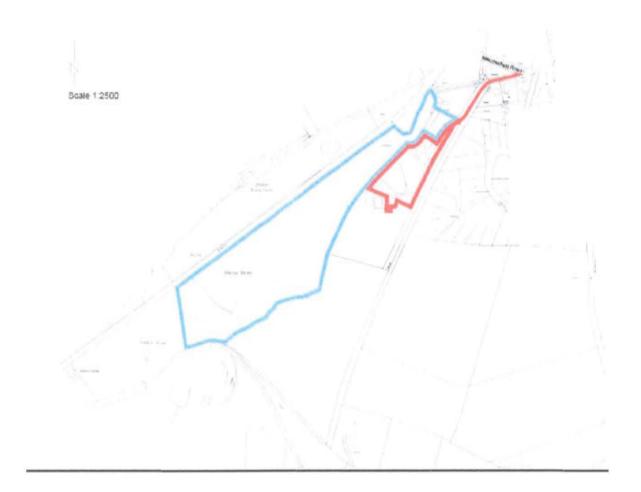
### 9. RECOMMENDATIONS

- 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)

 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



### Exhibit J:

Copy of April 2021 Committee Report with particular reference to page 2 & 3, section 2.3, 2.5 & 3.3, page 24 section 7.14, Page 30 section 7.36, Page 36 section 7.69

## Exhibit K

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

From:

Gary Cullen Samantha Cullen

Subject:

Fwd: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

Date:

31 March 2022 15:09:24

----- Forwarded message -----

From: Gary Cullen < gary.cullen29@gmail.com >

Date: Thu, May 6, 2021 at 8:31 AM

Subject: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

To: Jane Colley < iane.colley@highpeak.gov.uk >, Darling, Michael

< Michael Darling@highpeak.gov.uk >, < nicola.debruin@highpeak.gov.uk >, Rawdon

Gascoigne < RGascoigne@emeryplanning.com>

Dear Jane,

We write to request that a visit by you is arranged at the former classroom conversion 184 Macclesfield Road at your earliest opportunity to discuss and hopefully resolve the allegations that have come to light relating to the conversion of the former classroom block.

These allegations have been brought to our attention via the planning application HPK/2020/0301 made by Treville Properties Ltd. To date neither myself or my wife have received any formal communications to notify us that we are subject to an enforcement investigation but rather it has been second hand through reading the committee reports and correspondence in connection with the recent application. I am not aware that Emery Planning, the agents for that application, have received anything explicit setting out these concerns either. What is more concerning is that the applicant in the case of the application is not the owner or applicant of the former classroom building and the buildings falls

outside the application site. I would be grateful if you could confirm what your standard procedure is when carrying out an enforcement investigation? It is our understanding that a crucial first step when investigating an alleged or apparent breach of planning control is for the local planning authority to try and contact the owner or occupier of the site, and agent if they have one, to set out the concerns and questions to confirm/ reject allegations.

We feel that the way this is being handled is extremely unprofessional, questionable and possibly even breaches the Data Protection Act! To publicly announce an enforcement investigation on a planning application made by another party and to not notify us personally as the owner and occupier seems outside of standard procedure and good practice? To make matters worse, although it is outside of your control, a member of the local council has also shared the planning agenda on facebook which states about the enforcement investigation – gaining an even wider public coverage on something that to date we still have not been informed about.

I cant help feeling that our property conversion has been used as a ploy to try and tarnish Treville Properties as a company and also the application HPK/2020/0301 at our cost and detriment, even though these are unrelated matters.

As you can no doubt appreciate, this whole situation has caused an abundant amount of stress and worry, especially on my wife whose mental health has been heavily impacted by this. All of this could have and should have been avoided by contacting and confirming if

an investigation was needed in the first place. Instead no formal notice or discussion, no property visit as far as we are aware (other than the planning officer for HPK/2020/0301 who asked whether the conversion was lived in)... just a statement made within an unrelated planning agenda report on a public domain and later released on another public platform.

We believe this investigation has been ongoing since at least November 2020 or earlier and yet still no attempt by yourselves has been made to contact me and my wife? To try and get more information on the situation (amongst other things), we jointly alongside Treville Properties Ltd served a Freedom of Information request on HPBC on the 29<sup>th</sup> January 2021. To date this request hasn't been fulfilled. The last communication received following Treville Properties chasing it, was on the 13<sup>th</sup> April apologising for the delay and confirming they would chase the relevant service area. Clearly we are being denied any information regarding this matter.

We can not understand why this enforcement investigation has been handled the way it has been? A minimum of 6 months to investigate enforcement without contacting us, without a formal visit or discussion and publicising the investigation, this is unacceptable in more ways than one.

In order to move this forwards and reduce the stress and anxiety currently being caused, a disclosure from yourselves of what the alleged breach is would be appreciated. And we

feel a meeting at the former classroom block at your earliest convenience is vital.
I look forward to hearing from you at your earliest opportunity.
Yours Sincerely,
Gary Cullen

From:

Gary Cullen Samantha Cullen

Subject:

Fwd: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

Date:

31 March 2022 15:09:49

----- Forwarded message -----

From: planenforcement HPBC < planenforcement@highpeak.gov.uk>

Date: Thu, May 6, 2021 at 3:32 PM

Subject: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

To: Gary Cullen < gary.cullen29@gmail.com >

Good afternoon Mr Cullen

+

Gary

+

Whilst I acknowledge my receipt only of your below mail of this date it requires a formal response from the Councils Principle Planning and Enforcement Officer Ms Jane Colley who is shown addressed as the 1<sup>st</sup> recipient in your below mail

+

Kind regards,

Mr. Michael Darling.

Compliance and Monitoring Officer,

Regulatory Services.

High Peak Borough Council.

Buxton Town Hall, Market Place. Buxton. Derbyshire. SK17 6EL.

Phone 01298 28400 ext 3661

Email: planenforcement@highpeak.gov.uk\_Website: www.highpeak.gov.uk

From: Gary Cullen < gary\_cullen29@gmail.com>

Sent: 06 May 2021 08:32

To: Colley, Jane < <u>Jane Colley@highpeak.gov.uk</u>>; Darling, Michael

<a href="mailto:smaller: 1.5"><a href="mailto:smaller: 1.5"><a href="mailto:smaller: 1.5">Micola deBruin@highpeak.gov.uk"><a href="mailto:smaller: 1.5"><a href="mailto:smaller: 1.5">Nicola deBruin@highpeak.gov.uk</a>>; Rawdon Gascoigne

< RGascoigne@emeryplanning.com>

Subject: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

Dear Jane,

We write to request that a visit by you is arranged at the former classroom conversion 184 Macclesfield Road at your earliest opportunity to discuss and hopefully resolve the allegations that have come to light relating to the conversion of the former classroom block.

These allegations have been brought to our attention via the planning application HPK/2020/0301 made by Treville Properties Ltd. To date neither myself or my wife have received any formal communications to notify us that we are subject to an enforcement investigation but rather it has been second hand through reading the committee reports and correspondence in connection with the recent application. I am not aware that Emery Planning, the agents for that application, have received anything explicit setting out these concerns either. What is more concerning is that the applicant in the case of the application is not the owner or applicant of the former classroom building and the buildings falls outside the application site. I would be grateful if you could confirm what your standard procedure is when carrying out an enforcement investigation? It is our understanding that a crucial first step when investigating an alleged or apparent breach of planning control is for the local planning authority to try and contact the owner or occupier of the site, and agent if they have one, to set out the concerns and questions to confirm/ reject allegations.

We feel that the way this is being handled is extremely unprofessional, questionable and possibly even breaches the Data Protection Act! To publicly announce an enforcement

investigation on a planning application made by another party and to not notify us personally as the owner and occupier seems outside of standard procedure and good practice? To make matters worse, although it is outside of your control, a member of the local council has also shared the planning agenda on facebook which states about the enforcement investigation – gaining an even wider public coverage on something that to date we still have not been informed about.

I cant help feeling that our property conversion has been used as a ploy to try and tarnish Treville Properties as a company and also the application HPK/2020/0301 at our cost and detriment, even though these are unrelated matters.

As you can no doubt appreciate, this whole situation has caused an abundant amount of stress and worry, especially on my wife whose mental health has been heavily impacted by this. All of this could have and should have been avoided by contacting and confirming if an investigation was needed in the first place. Instead no formal notice or discussion, no property visit as far as we are aware (other than the planning officer for HPK/2020/0301 who asked whether the conversion was lived in)... just a statement made within an unrelated planning agenda report on a public domain and later released on another public platform.

We believe this investigation has been ongoing since at least November 2020 or earlier and yet still no attempt by yourselves has been made to contact me and my wife? To try and

get more information on the situation (amongst other things), we jointly alongside Treville Properties Ltd served a Freedom of Information request on HPBC on the 29<sup>th</sup> January 2021. To date this request hasn't been fulfilled. The last communication received following Treville Properties chasing it, was on the 13<sup>th</sup> April apologising for the delay and confirming they would chase the relevant service area. Clearly we are being denied any information regarding this matter.

We can not understand why this enforcement investigation has been handled the way it has been? A minimum of 6 months to investigate enforcement without contacting us, without a formal visit or discussion and publicising the investigation, this is unacceptable in more ways than one.

In order to move this forwards and reduce the stress and anxiety currently being caused, a disclosure from yourselves of what the alleged breach is would be appreciated. And we feel a meeting at the former classroom block at your earliest convenience is vital.

I look forward to hearing from you at your earliest opportunity.

Yours Sincerely,

### Gary Cullen

Do you really need to print out this Email? Be green - keep it on the screen.

This email is intended for the addressee(s) only and may contain sensitive, privileged or confidential information that could be protectively marked. If you are not the addressee please do not use the information in any way. If you have received this email in error please notify the sender immediately and delete it from your system. Thank you.

The Council may be required to disclose this email or any responses to it under the Freedom of Information Act 2000. The way in which we handle personal information is set out in our privacy notice and is available at <a href="https://www.highpeak.gov.uk/YourData">https://www.highpeak.gov.uk/YourData</a>

From:

Gary Cullen Samantha Cullen

Subject:

Fwd: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

Date:

31 March 2022 15:10:15

----- Forwarded message -----

From: Gary Cullen < gary\_cullen29@gmail.com >

Date: Tue, May 18, 2021 at 7:14 PM

Subject: Re: Former Classroom Block, 184 Macclesfield Road, Whaley Bridge, SK23 7DR

To: Jane Colley < iane.colley@highpeak.gov.uk >, Darling, Michael

< Michael Darling@highpeak.gov.uk>, < nicola.debruin@highpeak.gov.uk>, Rawdon

Gascoigne < RGascoigne@emeryplanning.com >

Dear Ms Colley,

I write following my initial email sent on 6<sup>th</sup> May 2021 (copy included below).

I wanted to check that you had received this as I haven't heard anything from you to date. I have received brief communication from your colleague Mr Darling, who has acknowledged receipt of his copy and confirmed that it is yourself handling the matter.

As per my original email, I cant stress enough the anxiety and the negative emotional impact this is having on my wife. And I can not understand why we haven't been consulted in any manner to an alleged breach and provided with information on what this alleged breach is, even though an announcement of an ongoing enforcement investigation has been placed out on public domains on an unrelated matter.

I again, write to invite you up to the dwelling in question for a meeting so that we can get an understanding on what the alleged breach is and hopefully for all involved, this can be moved forwards to a speedier conclusion.

Yours Sincerely

Gary Cullen

On Thu, May 6, 2021 at 8:31 AM Gary Cullen < gary.cullen29@gmail.com > wrote:

Dear Jane,

We write to request that a visit by you is arranged at the former classroom conversion 184 Macclesfield Road at your earliest opportunity to discuss and hopefully resolve the allegations that have come to light relating to the conversion of the former classroom block

These allegations have been brought to our attention via the planning application HPK/2020/0301 made by Treville Properties Ltd. To date neither myself or my wife have received any formal communications to notify us that we are subject to an enforcement investigation but rather it has been second hand through reading the committee reports and correspondence in connection with the recent application. I am not aware that Emery Planning, the agents for that application, have received anything explicit setting out these concerns either. What is more concerning is that the applicant in the case of the application is not the owner or applicant of the former classroom building and the buildings falls outside the application site. I would be grateful if you could confirm what your standard procedure is when carrying out an enforcement investigation? It is our understanding that a crucial first step when investigating an alleged or apparent breach of planning control is for the local planning authority to try and contact the owner or occupier of the site, and agent if they have one, to set out the concerns and questions to confirm/ reject allegations.

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We believe this investigation has been ongoing since at least November 2020 or earlier

and yet still no attempt by yourselves has been made to contact me and my wife? To try and get more information on the situation (amongst other things), we jointly alongside Treville Properties Ltd served a Freedom of Information request on HPBC on the 29<sup>th</sup> January 2021. To date this request hasn't been fulfilled. The last communication received following Treville Properties chasing it, was on the 13<sup>th</sup> April apologising for the delay and confirming they would chase the relevant service area. Clearly we are being denied any information regarding this matter.

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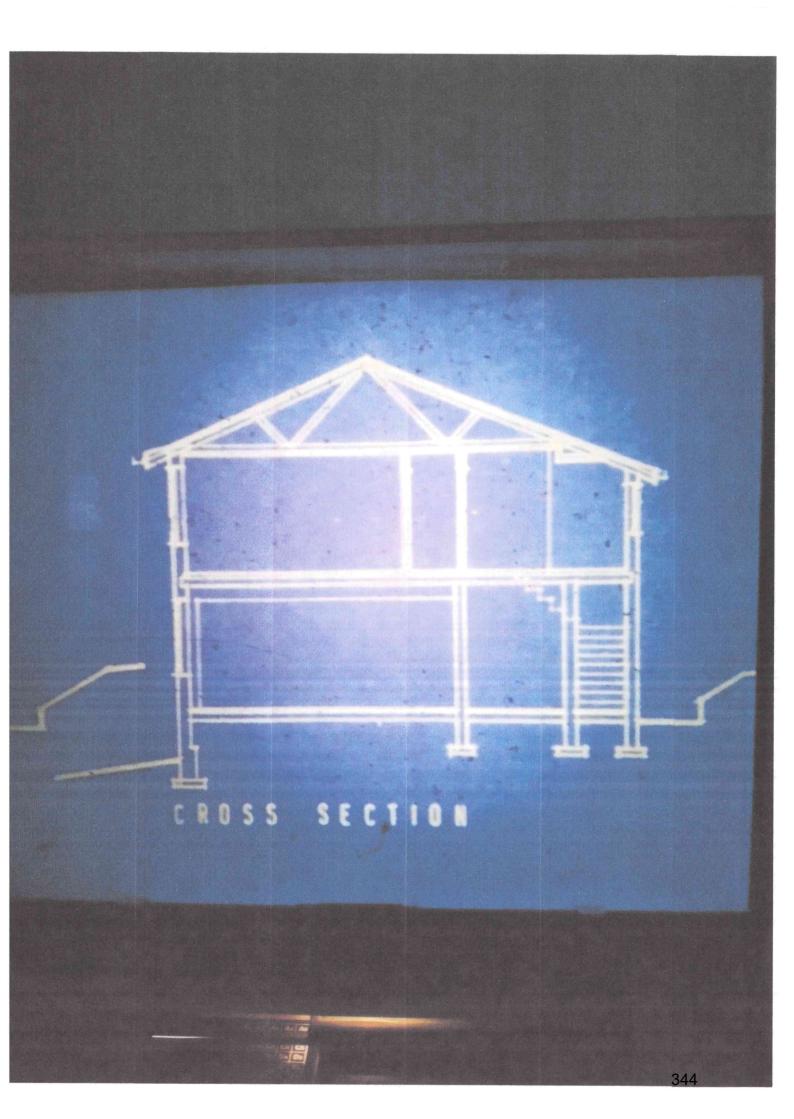
I look forward to hearing from you at your earliest opportunity.

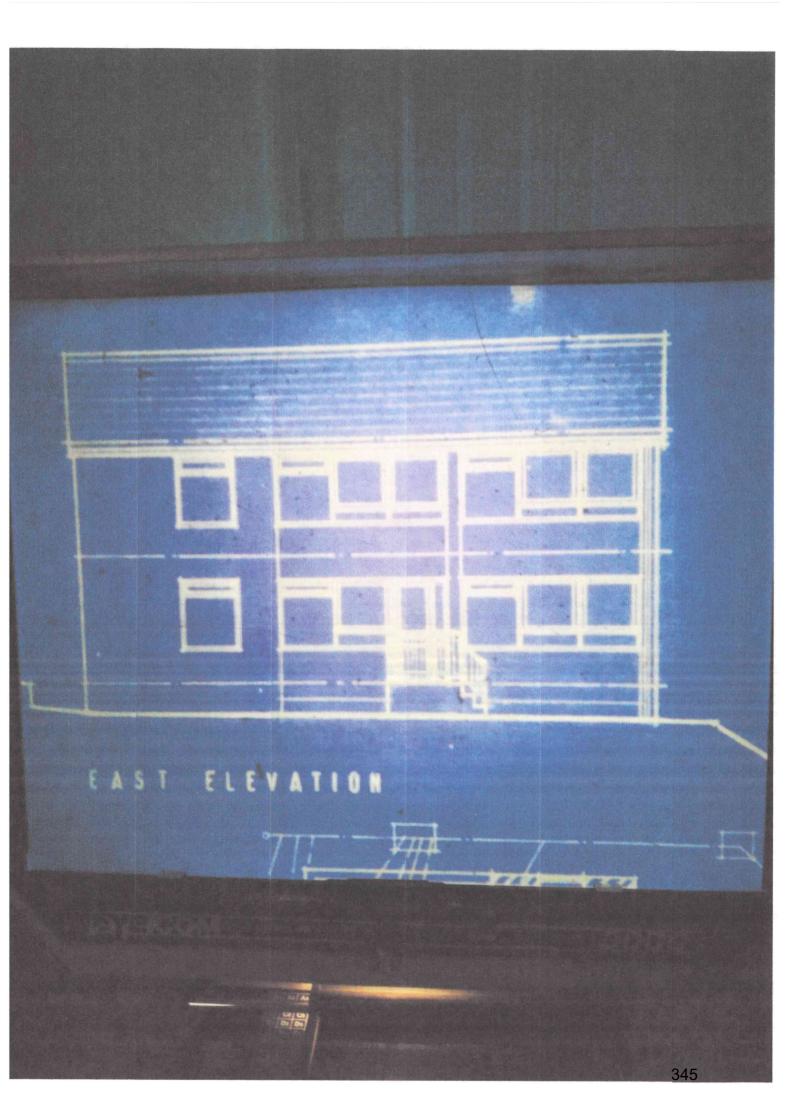
Yours Sincerely,

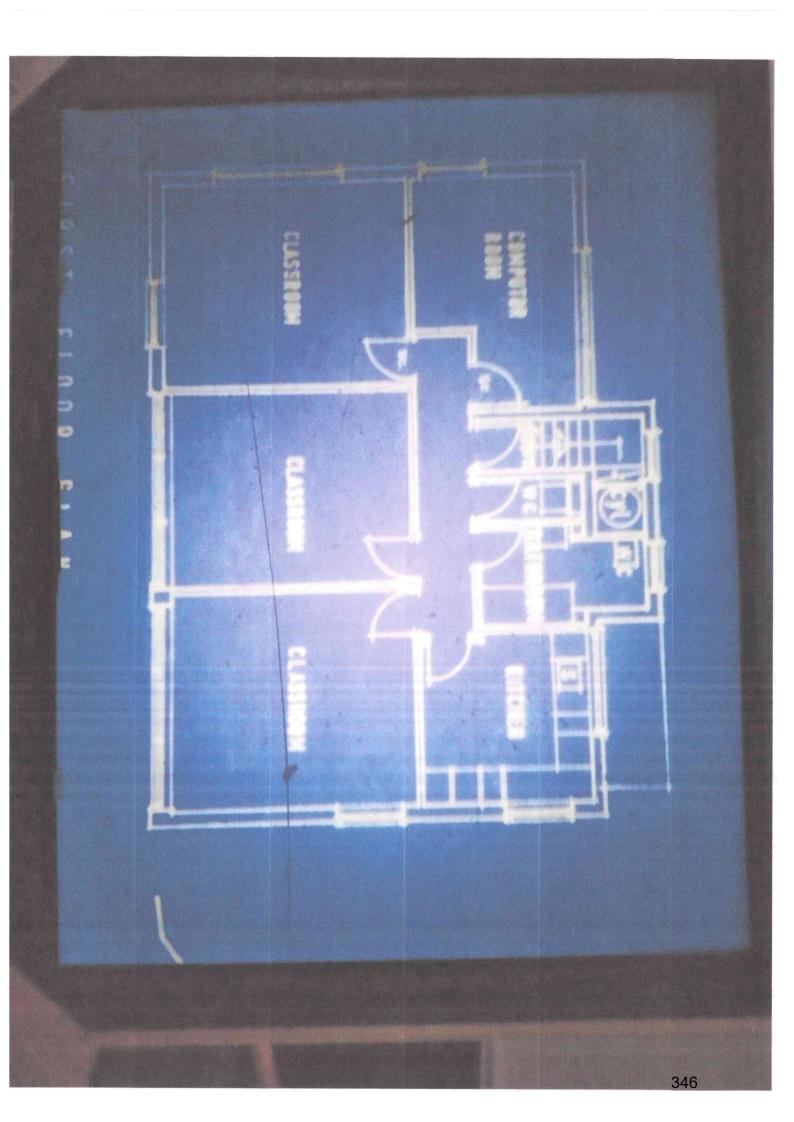
Gary Cullen

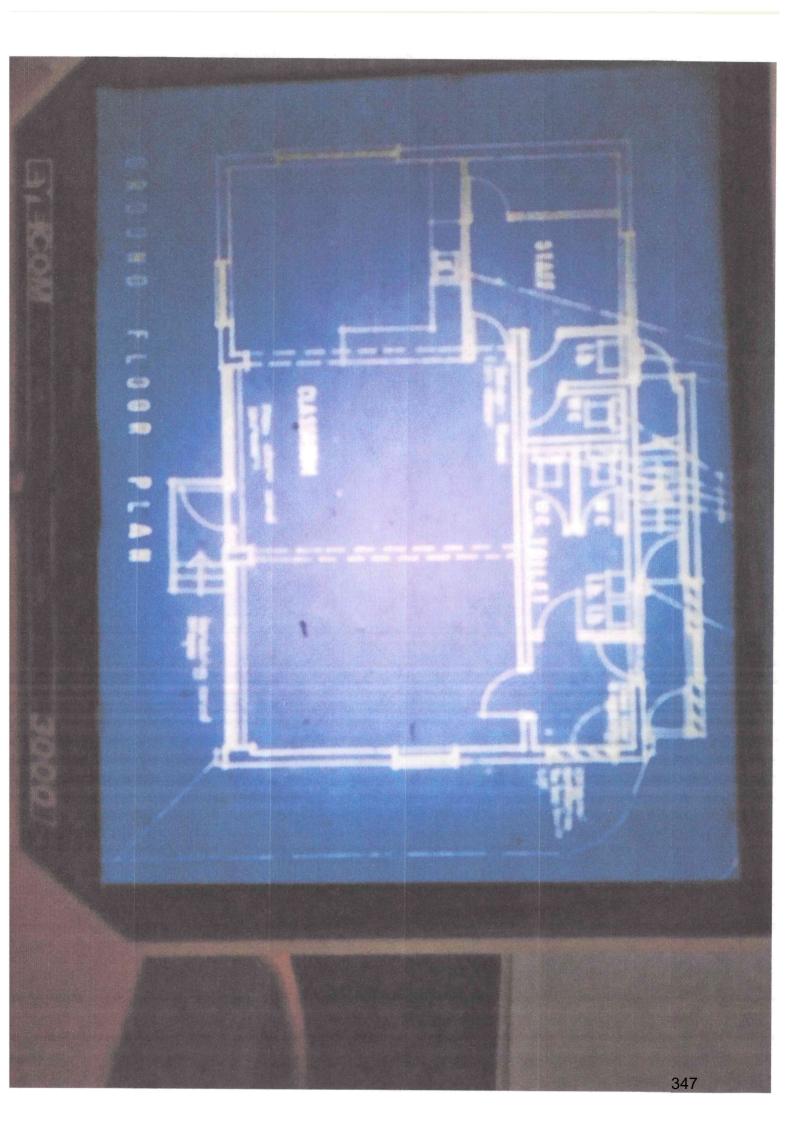
# Exhibit L

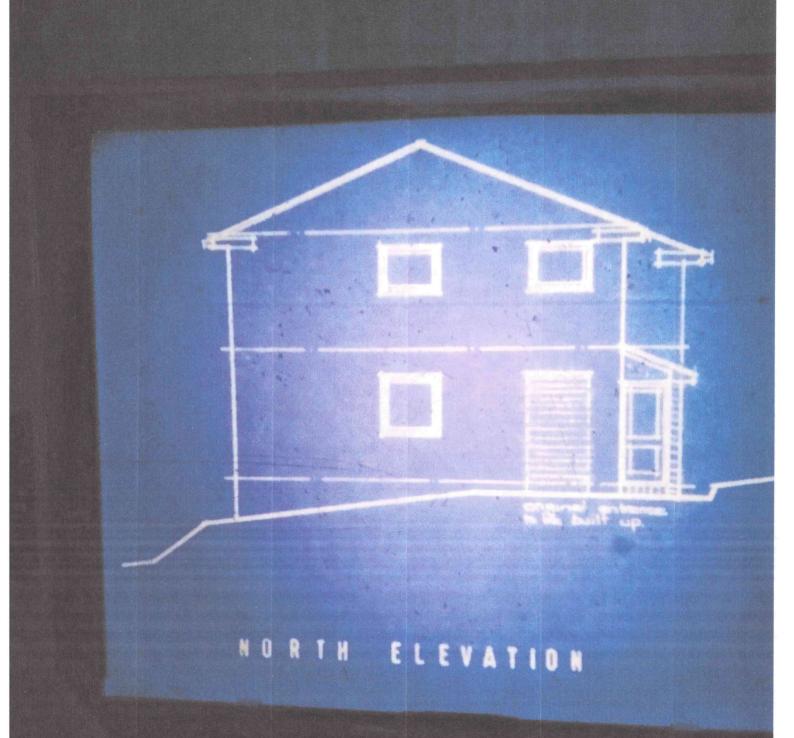
ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

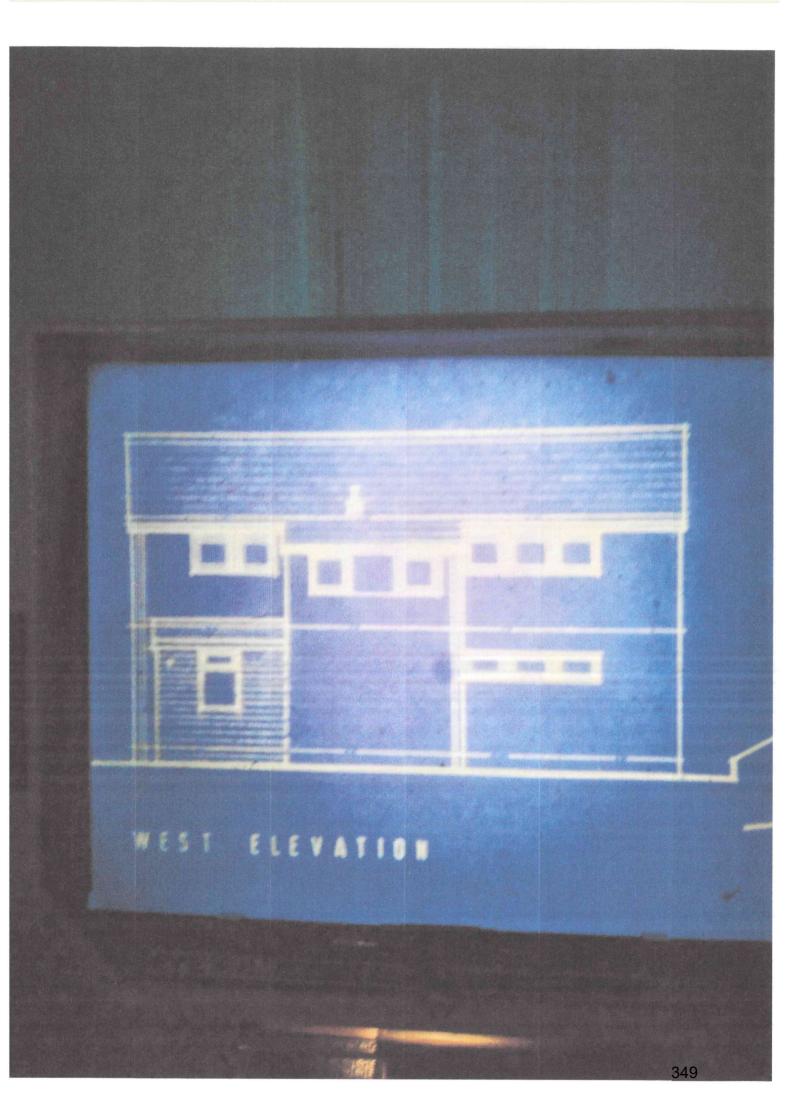












## Exhibit M

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

From:

Samantha-Jane Cullen

To:

Haywood, Ben

Cc:

Colley, Jane; de Bruin, Nicola; planenforcement HPBC; "Rawdon Gascoigne"; "Lynn Jones"; "Gary Cullen";

Subject:

Re: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Date:

25 July 2022 14:20:39

### Dear Ben.

Further to my emails dated 23/06 & 07/07 have you been able to review the further queries raised following your previous response? And when do you anticipate being able to respond?

As you will be aware earlier this month I have made a request under the Freedom of Information Act, however this will not supply answers to all of the questions.

In regards to our previous FOI request, have you now been able to seek advice on the redacting of information so that the requested information can be released?

I look forward to hearing from you

Samantha Cullen Company Secretary Treville Properties

From: Samantha-Jane Cullen <Samanthacullen\_treville@outlook.com>

Sent: Thursday, July 7, 2022 10:57:00 AM

To: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Cc: Colley, Jane <Jane.Colley@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>; planenforcement HPBC

<planenforcement@highpeak.gov.uk>; 'Rawdon Gascoigne' <RGascoigne@emeryplanning.com>; 'Lynn Jones' <Llones@emeryplanning.com>; 'Gary Cullen' <Gary.Cullen29@gmail.com>; Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Subject: Re: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

### Dear Ben,

I'm writing to check that you received my previous email sent 23/06/2022 (copy below for reference)?

I understand that you have been on annual leave which is why I have left it until now to contact you again. I would be grateful for a timely response to the queries that I raised.

I look forward to hearing from you,

Yours Sincerely

Samantha Cullen Company Secretary Treville Properties

From: Samantha-Jane Cullen

Sent: Thursday, June 23, 2022 4:08:32 PM

To: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Cc: Colley, Jane <Jane.Colley@highpeak.gov.uk>; de Bruin, Nicola

<Nicola.deBruin@highpeak.gov.uk>; planenforcement HPBC

<planenforcement@highpeak.gov.uk>; 'Rawdon Gascoigne' <RGascoigne@emeryplanning.com>;

'Lynn Jones' <Llones@emeryplanning.com>; 'Gary Cullen' <Gary.Cullen29@gmail.com>; Simpkin,

Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>; de Bruin, Nicola

<Nicola.deBruin@highpeak.gov.uk>; planenforcement HPBC <planenforcement@highpeak.gov.uk>

Subject: RE: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Dear Ben.

Thank you for your email dated 10<sup>th</sup> June 2022 which I can confirm has been received and the contents noted.

I am sympathetic to the struggles your department is currently facing with staff shortages and I am grateful for the time you have set aside to deal with my queries and for you providing me with the reference number in relation to the investigations into HPK/2009/0689.

I have also noted the reasons for the delay in providing information under the FOI request and appreciate your assistance in progressing this forward. As you can no doubt appreciate a significant amount of time has passed since our request was accepted back in February 2021.

Unfortunately, some of your answers have not alleviated my personal fears and concerns in regard to your departments conduct and behaviour in connection to the jointly submitted FOI request, HPK/2009/0689 and HPK/2020/0301. It has raised further questions, and lacks clarity in some areas. I am hoping you are you able to comment further on some points:

- 1. In regards to HPC/2022/0037, does this include the investigation into the former classroom block as referred to in the committee reports for HPK/2020/0301? Myself and Mr & Mrs Cullen had assumed it would have formed part of the site investigation as it was part of the planning approval for HPK/2009/0689 and was also referred to as being investigated in the committee reports. Following your response, I'm now assuming it doesn't. That being the case, please can you confirm:
  - the date the investigation into that dwelling started?

 The reason for the investigation being started - whether it was the planning officer who requested it, or whether it was instigated off the back of a complaint from a member of public?

- Why was this not disclosed under the FOI request in the enforcement list supplied? I note the reference on the Enforcement Notice is HPE/2019/00014. Indicating that this investigation was opened in 2019? That being the case it then contradicts the wording in the October committee report 'will be investigated'; and also contradicts the verbal discussion on the 4<sup>th</sup> May 2022 that it was at the planning officers request.
- If there was no investigations active at the time of the joint FOI request and the list being supplied, why didn't anyone say that there was no such investigation? I have queried it being missing from the list since 16<sup>th</sup> December 2021, initially with Samantha Vernon (copy of email attached for reference), Then again in an email dated 31/03/2021 which you were cc'd into (attached); and finally why did Mike Darling respond to Mr Cullen's email on 06/05/2021 Acknowledging receipt of the email and that it required a formal response from The Councils Principle Enforcement and Planning Officer Ms Jane Colley. A formal response

that I know Mr and Mrs Cullen still await (copy attached).

• If investigations did not commence until April 2022, why has the planning officer changed the wording in her committee report from 'will be investigated' (October 2020) to 'are being investigated' (November 2020)? It was these announcements of the investigations to committee members which resulted in us seeking Counsel's Opinion regarding our legal fallback position (at a great expense), as a consequence resulting in our planning application being delayed further and us incurring even further expenses due to the delays. I would imagine that committee members do not take planning officers views lightly especially when they advise they suspect a dwelling has possibly been demolished and a new one built in its place, a comment that was made to the committee without any investigation, communication with us or due diligence.

- 2. Thank you for supplying the diagrams which Jane had advised she had seen in relation to the 2009 application. These are the drawings we suspected had been viewed but Jane was quite adamant they related to the 2009 application but clearly these drawings do not relate to HPK/2009/0689 and I would estimate that they are at minimum 3 decades old if not the original drawings for the proposed classroom block. I would be grateful if you could confirm with me what application the diagrams are from?
- 3. Noted re reasons for the visit on 4<sup>th</sup> May 2022. I am sure you can agree that now a site visit has been carried out and with the guidance of legal opinion it is in the interest of all parties for a conclusion to be reached of your opinion of whether HPK/2009/0689 is extant or not? As you know, we stand firmly that the permission is extant, there are building regulation records demonstrating elements of it and in any event and not limited to, flat 1 was completed in excess of 10 years ago and would hope following the site visit and discussions you reach the same conclusion. At least if both parties can agree ahead of the appeal that the permission is extant it saves a lot of unnecessary additional costs and time in relation to the Public Inquiry as we will be making a costs application if any resolvable matters remain live in advance of the Inquiry.

In regard to the council tax, we understand the confusion here. We had tried to update the account details online but hit stumbling blocks so you are correct that the account name is still with Mr Butler who still lodges with us, however the actual payment for this years council Tax was done by Treville Properties. Is there a paper format for updating details which could be sent to us and I can ensure the details are updated?

I note that you are away this week so don't expect an immediate response but would appreciate my further queries being dealt with upon your return.

Yours sincerely

Samantha Cullen

Company Secretary
Treville Properties

### Please Note:

Any email and files/ attachments transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. If this message has been sent to you in error, you must not copy, distribute, or disclose of the information it contains. Please notify us immediately and delete the message from your system.

Cyber Crime - We do not send Bank Account details within the text of an email; this will be sent as a PDF attachment or JPEG Image, if in doubt please check with us that the details you have received are correct

#### Treville Properties Ltd

Address: C/o: Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR

Telephone: 01663 742555

Website: www.trevilleoropertiesItd.co.uk
Email: samanthacullen treville@outlook.com

Registered Office: La Grange, Chipshop, Tavistock, Devon, PL19 8NT

Company Number: 055 466 47 Vat Number: 892 4262 05 Director: Thomas Brian Cullen Secretary: Samantha Jane Cullen

From: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Sent: 10 June 2022 14:55

**To:** Samantha-Jane Cullen <samanthacullen\_treville@outlook.com> **Cc:** Colley, Jane <Jane.Colley@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>; planenforcement HPBC

<planenforcement@highpeak.gov.uk>; 'Rawdon Gascoigne' <RGascoigne@emeryplanning.com>;
'Lynn Jones' <LJones@emeryplanning.com>; 'Gary Cullen' <Gary.Cullen29@gmail.com>; Simpkin,

Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>; Haywood, Ben

<Ben.Haywood@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>;

planenforcement HPBC <planenforcement@highpeak.gov.uk>

Subject: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

#### Dear Samantha

I refer to your email below to Jane Colley. I am responding in Jane's absence on annual leave. I am sorry for the delay in our response. As I know you will appreciate we are currently dealing with unprecedented workloads following the departure of a number of staff from the team.

Firstly, with regard to the matter of the outstanding FOI request, the delay in providing this information has been due to the need to redact information from the files which could either directly or indirectly disclose the identity of complainants. I will, however, look into this as a matter of urgency and aim to provide you with the information as soon as possible. As you will note from the detailed answers to your questions the matter was not picked up by the enforcement team for investigation until April this year.

I can assure you that there has been no intention to operate in any way which could be regarded as "secretive and deceitful" and that any "lack of action/ communication" is purely due to competing priorities. We do believe that the service of the enforcement notice was in the public interest, as we believe the development which has been carried out is harmful. However, I do not propose to expand on the planning arguments in respect of the Notice here, as those are matters for formal submission through the Appeal process.

I will respond under separate cover in respect of Albion Road. Please find below responses to each of your specific questions, highlighted in red.

- Can you kindly confirm the date that the investigations in relation to HPK/2009/0689 commenced? The 5<sup>th</sup> April following a request by the case officer for HPK/2020/0301 and her discussions with the Councils barrister in respect of the live Appeal. You will note the enforcement case reference no. is HPC/2022/0037. (my emphasis)
- Please can you confirm what priority category has been allocated to this case? It has been given a priority 4 category because, from the evidence we had we thought it was more than likely to be a stable breach.
- 3. When you anticipate being able to conclude the matter be it the closing of the investigation or action being taken, if the latter, the sooner we know the better so that we can commence yet another appeal process The purposes of our site visit on the 4<sup>th</sup> May was to purely establish what works had been carried out at the site, and to establish, if we could, what planning permission had been implemented or not.
- 4. During our meeting you referred to a plan you had relating to the conversion of the former

- classroom block, please can you provide me with a copy of this. Please see attached.
- 5. Why other officers must be consulted before you can confirm whether HPK/2009/0689 is extant or not? I ask this in the hope I may be able to better understand why the department are continuing to cause what we can only see as prolonged and unnecessary delays despite the fact both us and our consultants have made it very clear these delays are costing us dearly; and that in our opinion it is clearly evident that the permission is extant and with many aspects of it carried out by our predecessor over 10 years ago. This matter is related to the planning appeal currently with the Planning Inspectorate and is a matter which we are discussing with out barrister.

I would also ask for written clarity on the below:

- 1. Why did enforcement contact the previous owner, now lodger to obtain access to the main building despite knowing that Treville Properties owned it? I am sure you are fully aware that Mr Butler has no legal rights to give you access. Had Mr Butler not contacted us, we no doubt would still be none the wiser to an ongoing investigation. This is not the first time that the department has acted in this manner with land belonging to us. We checked with the Councils Council tax department who confirmed that Mr Butler was paying Council tax. Therefore we naturally assumed that he was the person living at the property, rather than yourself.
- 2. Why this investigation wasn't completed, or even a site visit conducted as part of investigations ahead of the hearing for HPK/2020/0301? New evidence was presented on day 1 of the hearing by the planning officer which raised question to the fall back position resulting in the hearing being closed and going to public enquiry instead causing significant and costly delays to us and costing the public purse more. As discussed on the 4<sup>th</sup> May and evidenced by your own building control documents a significant amount of work was done by our predecessor more than 10 years ago and at minimum more than 4 years. Surely if an investigation was opened Circa Oct/Nov 2020 there was ample time to conduct enquiries, carryout an enforcement visit and reach a conclusion ahead of March 2022? Noted.
- 3. Who drew up the enforcement list supplied to Samantha Vernon, Freedom of Information Assistant? And why was this investigation omitted? The list was drawn up by enforcement officer Andy Thomas following a search of the Council's database system. The Taxal Investigation was not included because the search and list pre-date registering this matter as a formal enforcement complaint on 5<sup>th</sup> April as per the above answer.

I trust that the above is of assistance

#### Regards

Ben Haywood Head of Development Services

Staffordshire Moorlands District Council / High Peak Borough Council

Tel: 01538 395400 ext 4924 Mobile: 07976 753764 www.highpeak.gov.uk

www.staffsmoorlands.gov.uk

From: Samantha-Jane Cullen <Samanthacullen\_treville@outlook.com>

Sent: 31 May 2022 14:51

To: Colley, Jane < Jane. Colley@highpeak.gov.uk >; de Bruin, Nicola

< Nicola.deBruin@highpeak.gov.uk>; planenforcement HPBC < planenforcement@highpeak.gov.uk>

Cc: Rawdon Gascoigne < RGascoigne@emeryplanning.com >; Lynn Jones

<<u>Uones@emeryplanning.com</u>>; Gary Cullen <<u>Gary.Cullen29@gmail.com</u>>; Simpkin, Rachael.

<Rachael.Simpkin@staffsmoorlands.gov.uk>; Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Subject: RE: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Dear Jane.

It is disappointing that another 10 days have passed by since my last email and I haven't even had a courtesy email from you to acknowledge receipt. That's now 18 days since my earlier email with no acknowledgement from you and 27 days since your enforcement visit took place to assess and determine the position of HPK/2009/0689 and whether it is extant or not.

It is of note that following my email dated 20<sup>th</sup> May, as per Mike Darlings email of the same date I have now removed him from the recipients list and replaced his email with planenforcement.

With the failure to date to answer any queries and the failure of HPBC Planning and Enforcement department to disclose the investigations under the FOI request made February 2021 to which we still await documentation; I can only be left to draw my own conclusion from the limited documents available and verbal discussions that took place on the 4<sup>th</sup> May. From these I conclude that the enforcement investigations in relation to HPK/2009/0689 (including the former classroom) must have been opened circa end October/ Early November 2020. This being the case, that means this investigation has been ongoing for approximately 82 weeks now with no conclusion in sight. This also means it took approximately 78 weeks for you to even speak to us on the matter which the communication was instigated by us and the previous owner. It took approximately 72 weeks for you to "investigate" and serve an Enforcement Notice on the former classroom (part of HPK/2009/0689) with no communication at all with Mr and Mrs Cullen until the day you knocked on their door and handed them the notice, despite their earlier attempts to open communications with you. The investigation wasn't even disclosed in the list of enforcement investigations supplied to us 15/12/2021 under the FOI request jointly made by Mr & Mrs Cullen and Treville Properties in February 2021. Your own Enforcement Plan states 'Aim to complete all investigations in 13 weeks', so why are we now 82 weeks into an investigation on the Main House and why did it take 72 weeks to conclude your investigation on the former classroom? Even in Covid times with limitations this timescale seems excessive.

With all due respect it, it seems to me that the actions (or lack of action/ communication) taken by HPBC Planning and Enforcement Department in relation to 184 Macclesfield Road since the submission of HPK/2020/0301 have been somewhat questionable and I would go as far as saying verging on secretive and deceitful. To be frank, I begin to wonder in who's interest do you act as it certainly doesn't appear to be in the interest of the constituents of Whaley Bridge and the wider High Peak area – for the avoidance of doubt, im referring to the costly appeal process you are now having to deal with on the former classroom because conclusions of a breach of planning were drawn with no visit to the property, no discussions or investigation with the owners and ignoring the request from the owner to meet at the property to establish what was being investigated and to hopefully discuss what had been done and meet a resolution to avoid both parties incurring unnecessary costs. As per my previous email the Dorma windows have been fully completed for more than 4 years. Was this Enforcement Notice really served in the interest of the public. Im fairly certain that had that investigation been conducted in a professional manner and as per the Enforcement Plan neither party would be in the position they now find themselves.

I am trying to avoid having to escalate this matter (along with the failure to disclose information under the FOI request) to The Chief Executive as lets face it this would cause all parties to suffer unnecessary additional costs and time. Emery Planning are instructed by both Treville Properties and Mr and Mrs Cullen in this matter and I am aware they have reached out to you and Mr Heywood to confirm your availability for a sit down meeting to try and resolve on going issues,

including the Albion Road matter, without having things escalate further. I note to date, there has been no acknowledgement to this request.

I ask my questions again:

- 1. Can you kindly confirm the date that the investigations in relation to HPK/2009/0689 commenced?
- 2. Please can you confirm what priority category has been allocated to this case?
- 3. When you anticipate being able to conclude the matter be it the closing of the investigation or action being taken, if the latter, the sooner we know the better so that we can commence yet another appeal process
- 4. During our meeting you referred to a plan you had relating to the conversion of the former classroom block, please can you provide me with a copy of this.
- 5. Why other officers must be consulted before you can confirm whether HPK/2009/0689 is extant or not? I ask this in the hope I may be able to better understand why the department are continuing to cause what we can only see as prolonged and unnecessary delays despite the fact both us and our consultants have made it very clear these delays are costing us dearly; and that in our opinion it is clearly evident that the permission is extant and with many aspects of it carried out by our predecessor over 10 years ago.

I would also ask for written clarity on the below:

- 1. Why did enforcement contact the previous owner, now lodger to obtain access to the main building despite knowing that Treville Properties owned it? I am sure you are fully aware that Mr Butler has no legal rights to give you access. Had Mr Butler not contacted us, we no doubt would still be none the wiser to an ongoing investigation. This is not the first time that the department has acted in this manner with land belonging to us.
- 2. Why this investigation wasn't completed, or even a site visit conducted as part of investigations ahead of the hearing for HPK/2020/0301? New evidence was presented on day 1 of the hearing by the planning officer which raised question to the fall back position resulting in the hearing being closed and going to public enquiry instead causing significant and costly delays to us and costing the public purse more. As discussed on the 4<sup>th</sup> May and evidenced by your own building control documents a significant amount of work was done by our predecessor more than 10 years ago and at minimum more than 4 years. Surely if an investigation was opened Circa Oct/Nov 2020 there was ample time to conduct enquiries, carryout an enforcement visit and reach a conclusion ahead of March 2022?
- 3. Who drew up the enforcement list supplied to Samantha Vernon, Freedom of Information Assistant? And why was this investigation omitted?
  - I would ask for the courtesy of acknowledging receipt of this email along with a response time for answering the outstanding questions raised 12<sup>th</sup> May 2022 plus the ones raised today.

Yours Sincerely,

Samantha Cullen

Company Secretary Treville Properties

### Please Note:

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Treville Properties Ltd

Address: C/o: Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR

Telephone: 01663 742555

Website: www.trevilleoropertieshtd.co.uk Email: samanthacullen treville@outlook.com

Registered Office: La Grange, Chipshop, Tavistock, Devon, PL19 8NT

Company Number: 055 466 47 Vat Number: 892 4262 05 Director: Thomas Brian Cullen Secretary: Samantha Jane Cullen

From: Samantha-Jane Cullen Sent: 20 May 2022 11:01

To: Colley, Jane < lane. Colley@highpeak.gov.uk>; Darling, Michael

<Michael.Darling@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Cc: Rawdon Gascoigne < RGascoigne@emeryplanning.com >; Lynn Jones

Llones@emeryplanning.com>; Gary Cullen < Gary.Cullen29@gmail.com>; Simpkin, Rachael.

<Rachael.Simpkin@staffsmoorlands.gov.uk>

Subject: RE: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Dear Jane,

It is disappointing that I haven't had a reply to my email dated 12<sup>th</sup> May 2022 which contained several questions within it for answering. It is my understanding that the corporate response time is 5 working days so I would have expected to have received answers to my questions or at minimum an acknowledgement with answers to follow.

To save you having to trawl through previous emails I have listed the questions below for ease:

- Can you kindly confirm the date that the investigations in relation to HPK/2009/0689 commenced?
- 2. Please can you confirm what priority category has been allocated to this case?
- 3. When you anticipate being able to conclude the matter be it the closing of the investigation or action being taken, if the latter, the sooner we know the better so that we can commence yet another appeal process
- 4. During our meeting you referred to a plan you had relating to the conversion of the former classroom block, please can you provide me with a copy of this.
- 5. Why other officers must be consulted before you can confirm whether HPK/2009/0689 is extant or not? I ask this in the hope I may be able to better understand why the department are continuing to cause what we can only see as prolonged and unnecessary delays despite the fact both us and our consultants have made it very clear these delays are costing us dearly; and that in our opinion it is clearly evident that the permission is extant and with many aspects of it carried out by our predecessor over 10 years ago.

As you can no doubt understand we do not want to find ourselves in the position that Mr and Mrs Cullen are in due to the complete failure of communication from your department. Despite Mr Cullens numerous requests made to meet with enforcement to find out more (as information in the committee report was limited), and done in the hope to resolve the matter, these were ignored and then an enforcement notice served on them with no communications at all prior to this (minus Mr Darlings email to Mr Cullen confirming you were dealing with the matter as he had been CC'd in). I have Mr and Mrs Cullens consent to refer to their situation in this correspondence and to provide you with the attached for your reference - a dated image of the completed dormas from over 4 years ago – despite the enforcement notice referring to them as being less than 4 years. With a little communication with Mr and Mrs Cullen this image could have been provided to assist with the investigation and a costly appeal could have been avoided for all parties involved (and the public purse).

I anticipate that you will be able to provide your response within the corporate response time of 5

working days.

Kind Regards

Samantha Cullen

Company Secretary

Treville Properties



From: Samantha-Jane Cullen Sent: 12 May 2022 10:34

To: Colley, Jane < lane. Colley@highpeak.gov.uk >; Darling, Michael

<Michael.Darling@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Cc: Rawdon Gascoigne < RGascoigne@emeryplanning.com >; Lynn Jones

<<u>Liones@emeryplanning.com</u>>; Gary Cullen <<u>Gary.Cullen29@gmail.com</u>>; Simpkin, Rachael.

<Rachael.Simpkin@staffsmoorlands.gov.uk>

Subject: RE: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Dear Jane,

Thank you for your prompt reply.

I find it quite surprising that you need to consult with other officers on the matter before providing us with your position. I was under the impression that you had been delegated to assess the lawfulness of the works done under HPK/2009/0689? Therefore I cannot understand why you need to consult with others as to whether the permission is extant and/or whether a breach has occurred.

The delay is going to cause further unnecessary costs and emotional stress all round.

As per my previous email, please can you kindly confirm the date that the investigations in relation to HPK/2009/0689 commenced? I assume the start date of these are around October/ November 2020? This is based on the wording used in the committee reports for October and November 2020 in relation to HPK/2020/0180, and you verbally advising at the meeting that Rachael Simpkin had requested the status of HPK/2009/0689 be checked. On that basis we are now 19 months into when investigations were announced via the committee report.

Please can you confirm what priority category has been allocated to this case? And when you anticipate being able to confirm your position? Looking at HPBC Enforcement Plan, if you had

classed 184 Macclesfield Road as a high Priority, why has it taken 19 months to get to this position, plus however long it takes for you to consult others? If it is a low priority, why are you unable to advise us of your findings prior to consulting with other offices? I am now weighing up making a formal complaint about the conduct of Officers and the delays given what I have read in the Enforcement Plan about how it should have been dealt with, but obviously I hope that will not be necessary

I am sure you can understand why I question the professionalism and actions being taken by enforcement and the planning department - Between the non-disclosure of any investigations taking place following the FOI request made in February 2021 (to which I still await outstanding information and a reply to my query); the way an investigation was announced via a public document, the use of an investigation in the hearing resulting in it having to go to a public enquiry costing both us and the public purse (and even then still no formal communication to us about any investigation); then trying to obtain access to the building via a previous owner albeit still a lodger; and now further delays despite in your own words whilst stood in flat 1 you couldn't deny that you were stood in the lounge in flat 1 as per agreed plan; not to mention the building control record which is from over 10 years ago. Also, mentioned previously this not only affects us financially but is also having an impact on mental health. Your own enforcement plan implies that things will be dealt with in a speedier manner than over 19 months and that you will always try and consult the landowner early on in investigations. All this added together makes me think this is being dealt with in this manner so that at Public Enquiry you can say that we are subject to enforcement investigation and/ or notices.

I will await your confirmation as to when you anticipate being able to conclude the matter – be it the closing of the investigation or action being taken, if the latter, the sooner we know the better so that we can commence yet another appeal process.

Kind Regards

Samantha Cullen

Company Secretary

Treville Properties



From: Colley, Jane < Jane.Colley@highpeak.gov.uk>

Sent: 10 May 2022 18:03

To: 'Samantha-Jane Cullen' <<u>Samanthacullen\_treville@outlook.com</u>>; Darling, Michael

< Michael. Darling@highpeak.gov.uk>; de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk>

Cc: Rawdon Gascoigne < RGascoigne@emeryplanning.com >; Lynn Jones

<Llones@emeryplanning.com>; Gary Cullen <Gary.Cullen29@gmail.com>; Simpkin, Rachael.

<Rachael.Simpkin@staffsmoorlands.gov.uk>

Subject: RE: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Dear Samantha,

Thank you for your email. However, officers have yet to meet to discuss the findings of the site visit and so we are currently unable to provide you with the assurances you require. We will return to you as soon as we can.

Kind regards,

Jane Colley Principal Planning Officer

From: Samantha-Jane Cullen <Samanthacullen\_treville@outlook.com>

Sent: 10 May 2022 17:04

To: Colley, Jane < lane. Colley@highpeak.gov.uk>; Darling, Michael

<Michael.Darling@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Cc: Rawdon Gascoigne <RGascoigne@emeryplanning.com>; Lynn Jones <Llones@emeryplanning.com>; Gary Cullen <Gary.Cullen29@gmail.com>
Subject: Enforcement Visit To Taxal Edge 184 Macclesfield Road SK23 7DR

Dear Jane.

Following on from yours and Mike Darlings visit to Taxal Edge, 184 Macclesfield Road on Wednesday 4<sup>th</sup> May at 10am to determine whether HPK/2009/0689 consent had been implemented, we write to request confirmation of your findings?

I am sure that we can all agree that all works can be seen to have commenced under HPK/2009/0689, and in some areas substantially. And as proven by building control records at High Peak some works carried out exceed 10 years which should conclude that there is no need for any enforcement action to be continued. Please can you confirm that this matter is now resolved? And if not, the reasons why?

During our meeting you referred to a plan you had relating to the conversion of the former classroom block, please can you provide me with a copy of this for our records? I would also be grateful if you could also confirm what date the enforcement investigations commenced (I noted that this was following a request made by Rachael Simpkin to check the status of the permission).

As discussed during the meeting we find the planning and enforcement departments behaviour and professionalism in relation to this site during our ownership very questionable and also costly, which many of the costs incurred by us (and Mr and Mrs Cullen) could have been avoided by simple communications.

If we don't hear anything back within 7 working days we will conclude that you are satisfied that

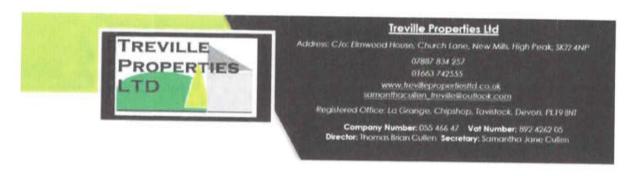
HPK/2009/0689 has commenced and is extant and that the investigation is now resolved and closed. If you disagree, we can issue a detailed note of the meeting so that it can be discussed further.

Kind Regards

Samantha Cullen

Company Secretary

Treville Properties



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# Exhibit N

A Land

ALAN BERRY
SRA No. 146725
Solicitor
Salehs Solicitors
Didsbury House
748 Wilmslow Road
Didsbury
Manchester M20 2DW

From:

HPBC-Info@infreemation.co.uk

samanthacullen treville@outlook.com

Subject:

[HPF0I2022/23-0341] FOI Request - HPC/2022/0037 and HPE/2019/00014

Date: 15 July 2022 10:28:02

#### Dear Ms Cullen

## Re: Freedom of Information Request - HPFOI2022/23-0341

Thank you for your request received on 14 July 2022, placed under the Freedom of Information Act 2000.

The request will be dealt with in accordance with the provisions of the Act and, as such, you will receive our response no later than 11 August 2022.

I have forwarded your request to Mr Haywood for his attention. In the meantime, for completeness please can you forward a new letter of authority from Mr and Mrs Cullen.

Could you also clarify if the planning reference quoted HPE/2019/00014 is correct?

I look forward to receiving the above and if I can be of any assistance in the meantime, please do not hesitate to contact me.

Yours sincerely

Samantha Vernon
Freedom of Information Assistant

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http://www.highpeak.gov.uk

Subject:

FW: Taxal Edge Urgent Enforcement Notice Required (following adjournment of hearing and conversion to PI)

From: >

Sent: 16 March 2022 15:18

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Subject: Pictures Taxal Edge

Hi Rachel

My investigations continue

2 google aerial photos below

As you will see in April 2018 the classroom (bottom left hand corner) has the roof in progress – if you Zoom in you can actually see the battens

In June 2018 the roof now has the Dorma windows cut out. Can't establish if windows are in. It is still a builders yard.

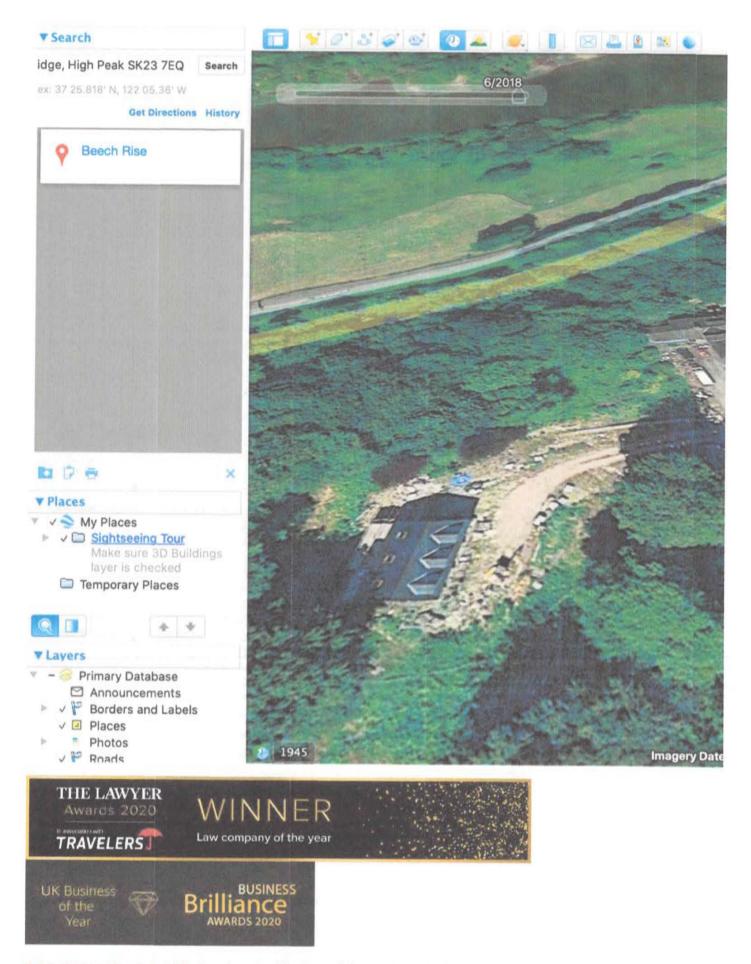
I remember it was some time later the rest was completed but it looks like there can be no argument that the roof and therefore the building was not complete in April 2018.

May 2018 could be the 4 year cut off. Can we issue Enforcement Proceedings before 19 April so we can be certain to be in the 4 years?

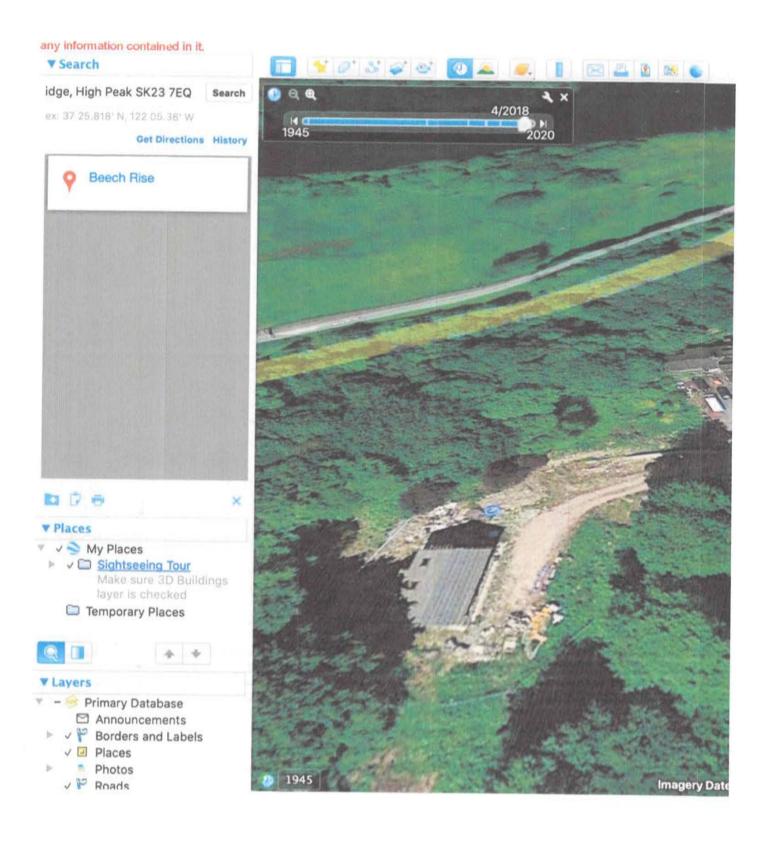
Your Tree Preservation officer, Ruth Baker, should have pictures as she has been up there no end of times. Can you chase her?

Kind regards

XXXX



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#### Subject:

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 22 March 2022 11:21

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: RE: XXXXXXXXXXX

Hi Andy,

Xxxxxxxxxxxxx

#### A couple of other matters:

- 1. XXXXXXXXXXXXXXXXX
- 2. Taxal Edge Rachael had an informal hearing last week, concerning a planning application for new housing which was refused by the Committee. Unfortunately the hearing was adjourned and transferred to a public inquiry. The barrister representing us, has now requested that we consider enforcement action against a house which has been built on the land and possibly the demolition of another structure (I don't know which building this is). Therefore I may need your help in getting the information together we need, to decide if enforcement action can be taken. This will be a priority as it looks like (from first reading of the barristers note and info from local residents) that this will need to be done by the 1st/2nd week of April.
- 3. XXXXXXXXX

Shall we catch up following your site visit today? Do you want to give me a call, when you are available?

Cheers,

Jane

Subject:

FW: 184 Taxal Edge Visit

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Sent: 01 April 2022 10:42

To: de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk>

Subject: Hi, did the EN go? thanks

Importance: High

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW: 184 Taxal Edge Visit

From: de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk>

Sent: 01 April 2022 11:27

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk >; Colley, Jane < Jane. Colley@highpeak.gov.uk >

Subject: RE: Hi, did the EN go? thanks

I think so, I signed them and Jane went off with them. Jane can we have a copy of the notice so we can inform Emerys and PINS. Thanks  ${\sf N}$ 

Nicola de Bruin Solicitor, High Peak Borough Council Market Place Buxton, Derbyshire SK17 6EL 01298 28400 ext. 2065

Subject:

FW: 184 Taxal Edge Visit

From: Colley, Jane < Jane.Colley@highpeak.gov.uk>

Sent: 01 April 2022 11:37

To: de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk >; Simpkin, Rachael.

<Rachael.Simpkin@staffsmoorlands.gov.uk>

Subject: RE: Hi, did the EN go? thanks

Hello Both,

Gary and Gail were in at the new house at Taxal, so the notices were hand delivered to them. I did explain the content of the notices, which relates solely to the roof and windows. However what was interesting was that the outer stone is new and we could see it at the entrance on the side of the dwelling, and which Gary pointed out. The "inner skin" of the original building is still there. The large opening at the side has a recessed doorway, with letterbox, with an open covered porch area.

I've sent an email this morning to Emery's with a copy of the notice, which is also attached.

Cheers,

Jane

Subject:

FW: 184 Taxal Edge Visit

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Sent: 01 April 2022 11:45

To: Colley, Jane < <u>Jane.Colley@highpeak.gov.uk</u>>; de Bruin, Nicola < <u>Nicola.deBruin@highpeak.gov.uk</u>>

Subject: RE: Hi, did the EN go? thanks

Thank you Jane.

Hugh wants us to check the 'implemented' apartment within Taxal Edge itself I can do a joint visit with enforcement ASAP.

Kind regards,

Rachael Simpkin Senior Planning Officer (Majors & Commercial) Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Sent:

13 September 2022 13:37

Subject:

FW: 184 Taxal Edge Visit

From: Colley, Jane < Jane.Colley@highpeak.gov.uk>

Sent: 01 April 2022 12:11

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk >; de Bruin, Nicola

<Nicola.deBruin@highpeak.gov.uk>

Cc: Thomas, Andy < Andy. Thomas@highpeak.gov.uk >

Subject: RE: Hi, did the EN go? thanks

Hi Rachel,

Ok no problem, however we will need to give Gary Cullen 24hrs notice in order to access a "dwelling". Do you want to do this next week? If so, Andy would you be able to accompany Rachael? We will need to contact Gary and arrange a time to visit. I'm swamped next week with interviews and committee, so ill struggle to attend.

Cheers,

Jane

Subject:

FW: 184 Taxal Edge Visit

From: Simpkin, Rachael. Sent: 01 April 2022 12:31

To: Colley, Jane < Jane. Colley@highpeak.gov.uk >; de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk >

Cc: Thomas, Andy < Andy. Thomas@highpeak.gov.uk >

Subject: RE: Hi, did the EN go? thanks

Hi Jane,

I can work around you both - next couple of weeks will be fine thank you.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW: 184 Taxal Edge Visit

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Sent: 05 April 2022 13:46

To: Thomas, Andy < Andy. Thomas@highpeak.gov.uk>

Cc: Colley, Jane < Jane. Colley@highpeak.gov.uk >; de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk >

Subject: 184 Taxal Edge Visit

Hi Andy,

When it suits you to do a planning enforcement visit to Taxal Edge with me (to view the apartment within the building itself and the rest of the building) please let me know. Would you serve the 24 hours notice?

It is understood Mr XXXXX occupies the apartment within the building in terms of evidence given at the hearing — however the address for Council Tax purposes appears to be 184 Taxal Edge. Adam (C.Tax) can confirm this for you.

Kind regards,

Rachael Simpkin Senior Planning Officer (Majors & Commercial) Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW: 184 Taxal Edge Visit

From: Colley, Jane < Jane.Colley@highpeak.gov.uk>

Sent: 05 April 2022 15:30

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk >; Thomas, Andy

<a href="mailto:Andy.Thomas@highpeak.gov.uk">

Cc: de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk>

Subject: RE: 184 Taxal Edge Visit

Hi Andy/Rachael,

Can you manage the site visit to Taxal Edge without me?

Cheers,

Jane

Subject:

FW: 184 Taxal Edge Visit

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Sent: 05 April 2022 15:35

To: Colley, Jane < Jane.Colley@highpeak.gov.uk >; Thomas, Andy < Andy.Thomas@highpeak.gov.uk >

Cc: de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk>

Subject: RE: 184 Taxal Edge Visit

Hi Jane,

Along as Andy can deal with the powers of entry and prior notice elements it is fine with me thanks.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW: 184 Taxal Edge Visit

From: Thomas, Andy < Andy. Thomas@highpeak.gov.uk >

Sent: 05 April 2022 15:37

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk >; Colley, Jane < Jane.Colley@highpeak.gov.uk >

Cc: de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk>

Subject: RE: 184 Taxal Edge Visit

I'm fine to go but I have no idea how to deal with the prior notice elements and I think Ben's dealing with the powers of entry thing.

Any advice would be welcome.

Andy

Subject:

FW: 184 Taxal Edge Visit

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 05 April 2022 15:54

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>; Simpkin, Rachael.

<Rachael.Simpkin@staffsmoorlands.gov.uk>

Cc: de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Subject: RE: 184 Taxal Edge Visit

If Mr XXXXXX is living in the apartment, I would phone him (if we have a telephone number) to advise that we need access to carry out a site inspection to confirm if the conversion works comply with the 2009 pp. If we don't have his telephone number we need to write to him and give him a date for when you want to visit, and ask him to confirm if this is ok (preferably in writing, an email will do). The relevant section is 196A (4) of the Town and County Planning Act 1990, which specifically refers to access to dwellinghouses and the need to provide 24hrs notice of your visit. But you will need to have your written authorisation with you to enter the building.

Cheers,

Jane

Sent:

13 September 2022 13:49

Subject:

FW: 184 Taxal Edge Visit

Attachments:

Appeal Ref: APP/H1033/W/21/3272745 - Taxal Edge, Whaley Bridge

From: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Sent: 05 April 2022 16:07

To: Colley, Jane <Jane.Colley@highpeak.gov.uk>; Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Cc: de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>; Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Subject: RE: 184 Taxal Edge Visit

Hi All,

Please find email from Mr XXXXXX as presented at the Inquiry.

Jane – would you be happy to write to Mr XXXXXX once we have authorisation – I understand that he is only occupying the apartment within the dwelling – but there are past reports of the building being rented out as a HMO – but for enforcement purposes both elements are dwelling accommodation anyhow?

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW:

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk >

Sent: 07 April 2022 09:58

To: planenforcement HPBC < planenforcement@highpeak.gov.uk>

Cc: Colley, Jane < Jane.Colley@highpeak.gov.uk>

Subject: RE:

Hi Both

Any news on Taxal Edge please?

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW:

From: planenforcement HPBC planenforcement@highpeak.gov.uk>

Sent: 07 April 2022 10:08

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Cc: Colley, Jane < Jane.Colley@highpeak.gov.uk >; Haywood, Ben < Ben. Haywood@highpeak.gov.uk >

Subject: RE:

Hi Rachael,

Last I heard we were waiting for Ben to sort out the right of entry authorisation and after that's done, for someone to contact Mr XXXXXXX about visiting. I can go any day next week, obviously not Friday, or Monday the week after because it's Easter

In the email attached, Jane originally says it should be XXXXXXX that we contact, now it's XXXXXXXX. Just checking which is correct.

Andy

Subject:

FW:

From: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Sent: 07 April 2022 12:21

To: planenforcement HPBC <planenforcement@highpeak.gov.uk>

Cc: Colley, Jane <Jane.Colley@highpeak.gov.uk>; Haywood, Ben <Ben.Haywood@highpeak.gov.uk>; de Bruin, Nicola

<Nicola.deBruin@highpeak.gov.uk>

Subject: RE:

Hi Andy,

Apparently, Mr XXXXXX is living in the apartment in 184 Taxal Edge itself and I have provided the email contact. Can Jane write as I have no experience of this?

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

T: 01538 395 400 x4122

M: 07976 753719

Subject:

FW: Access to Taxal Edge

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 12 April 2022 18:09

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: Access to Taxal Edge

Hi Andy,

I think we have an email address for Mr XXXXXX who we assume is living in the main building. Have we heard back from Council tax to confirm? We need to advise me that we require access to the building, so I would send him an email along the following lines:

Dear Mr XXXXXXX,

As you will be aware the Council is currently involved in a planning appeal concerning the erection of new dwellings on the land. I note your comments on the 8<sup>th</sup> March 2022 that planning conditions were agreed pursuant to a previous planning permission to convert the building into apartments. In order to confirm this, we need to undertake a site visit and enter your property. Therefore pursuant to section is 196A (4) of the Town and County Planning Act 1990, I am writing to advise you that I wish to undertake a site visit on ???. The site visit will be conducted by Andy Thomas, Compliance and Monitoring Officer and Rachael Simpkin, Senior Planning Officer. Please can you confirm that this is convenient to you?

Cheers,

Jane Colley Principal Planning Officer

High Peak Borough Council and Staffordshire Moorlands District Council

Direct Dial: 01298 28400 ext 4981

Mobile: 07976 753726

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Subject:

FW: Access to Taxal Edge

From: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Sent: 13 April 2022 13:46

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>; Colley, Jane <Jane.Colley@highpeak.gov.uk>; Haywood, Ben

<Ben.Haywood@highpeak.gov.uk>
Subject: RE: Access to Taxal Edge

Hi Andy,

Thanks for coming back to me. I would prefer 25th or 26th April before I go on leave for 2 weeks if that suits.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW: Access to Taxal Edge

From: Thomas, Andy Sent: 13 April 2022 15:51

To: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>; Colley, Jane <Jane.Colley@highpeak.gov.uk>;

Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Subject: RE: Access to Taxal Edge

Hi Rachael,

I'll write to Mr XXXXXX and suggest 25th August at 11am if that's OK with you.

Ben please could you sign the letter authorising right of entry?

Thanks, Andy

Sent:

13 September 2022 14:12

Subject:

FW: Andy Thomas Letter

Attachments:

Andy Thomas Letter.pdf

From: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Sent: 13 April 2022 16:01

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: Andy Thomas Letter

Please see attached

Ben



13th April 2022



To Whom It May Concern

Dear Sir / Madam

**RE: MR ANDY THOMAS** 

I can confirm that Mr Andy Thomas (Pictured above) is a member of staff of High Peak Borough Council Development Services and is authorised to enter any land or premises for the purposes of his official duties pursuant to \$106(6), 196A, 196B, 196C, 214B, 214C, 214D and 324 of the Town and Country Planning Act 1990 (as amended), \$88, 88A and 88B of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) Regulation 12, 13, and 14 of the Hedgerow Regulations 1997, Section 74 of the Anti-Social Behaviour Act 2003 and \$836A, 36B and 36C of the Planning (Hazardous Substances) Act 1990 and any statutory re-enactment or modifications of the said Acts or Regulations made thereunder to enter land for all purposes specified in the said sections or regulations for which the Council may grant authorisation

I trust that the above is of assistance. However, if you require any further information or to verify the authenticity of this letter please do not hesitate to contact me on 01538 395400 ext 4924.

Yours faithfully

B.J. Haywood

Ben Haywood Head of Development Services

Subject:

FW: Taxal Edge site visit draft letter

From: Thomas, Andy Sent: 14 April 2022 13:39

To: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Cc: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>; Haywood, Ben <Ben.Haywood@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Subject: Taxal Edge site visit draft letter

Hi all,

I've got a draft of the email I intend to send to Mr XXXXXX. It's Jane's wording which I haven't tweaked except to put the intended date & time of the site visit. Before I send it, could you check it, make sure it's OK and Rachael, could you confirm the date & time suit you?

Thanks, Andy

Dear Mr XXXXX.

As you will be aware the Council is currently involved in a planning appeal concerning the erection of new dwellings on the land. I note your comments on the 8<sup>th</sup> March 2022 that planning conditions were agreed pursuant to a previous planning permission to convert the building into apartments. In order to confirm this, we need to undertake a site visit and enter your property.

Therefore pursuant to section is 196A (4) of the Town and County Planning Act 1990, I am writing to advise you that I wish to undertake a site visit on April 25<sup>th</sup> at around 11am. The site visit will be conducted by Andy Thomas, Compliance and Monitoring Officer and Rachael Simpkin, Senior Planning Officer. Please can you confirm that this is convenient to you?

Yours sincerely

Andy Thomas
Compliance and Monitoring Officer
Tel 01298 28400 – extension 4172
Mobile: 07583 071686



www.highpeak.gov.uk www.staffsmoorlands.gov.uk



Sent:

13 September 2022 14:18

Subject:

FW: Taxal Edge site visit draft letter

Importance:

High

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Sent: 14 April 2022 15:16

To: Thomas, Andy < Andy. Thomas@highpeak.gov.uk >; Colley, Jane < Jane. Colley@highpeak.gov.uk >

Cc: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Subject: RE: Taxal Edge site visit draft letter

Importance: High

Hi Andy,

Thanks – we need to enter the building to assess the implementation of the apartment (not conditions) regarding the appellant's fallback position for scheme ref. HPK/2009/0689.

Kind regards,

Rachael Simpkin Senior Planning Officer (Majors & Commercial) Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Sent:

13 September 2022 14:19

Subject:

FW: Taxal Edge site visit draft letter

Importance:

High

From: Thomas, Andy Sent: 14 April 2022 15:23

To: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Cc: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>; Colley,

Jane <Jane.Colley@highpeak.gov.uk>

Subject: FW: Taxal Edge site visit draft letter

Importance: High

Thanks Rachael,

Please could you amend the letter accordingly? And confirm that you can make the date & time?

Thanks, Andy

Subject:

FW: Taxal Edge site visit draft letter

From: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Sent: 14 April 2022 15:32

To: de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>; Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: RE: Taxal Edge site visit draft letter

Thanks. I have confirmed Andy's time 11.00am 25th April. R

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

Subject:

FW: Taxal Edge, 184 Macclesfield Rd, Whaley Bridge

From: planenforcement HPBC Sent: 14 April 2022 16:02

To: >

Subject: Taxal Edge, 184 Macclesfield Rd, Whaley Bridge

Dear Mr XXXXXX,

As you will be aware the Council is currently involved in a planning appeal concerning the erection of new dwellings on the land at Taxal Edge. In order to check whether the permission HPK/2009/0689 for conversion of a single dwelling house to provide seven apartments has been implemented and in accordance with the planning permission conditions we need to undertake a site visit and enter the property, including any apartments that have been created there.

Therefore pursuant to section is 196A (4) of the Town and County Planning Act 1990, I am writing to advise you that I will be undertaking a site visit which will require access to the inside of the property and any apartments on April 25th at 11am. The site visit will be conducted by myself, Andy Thomas, Compliance and Monitoring Officer and Rachael Simpkin, Senior Planning Officer. If the date is not convenient to you please let me know straightaway so that an alternative date can be arranged to suit you

Yours sincerely

Andy Thomas

Compliance and Monitoring Officer Tel 01298 28400 – extension 4172









Subject:

FW: 184 Taxal Edge site visit

From: planenforcement HPBC <planenforcement@highpeak.gov.uk>

Sent: 21 April 2022 08:15

To: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk>

Cc: Colley, Jane < Jane. Colley@highpeak.gov.uk >; Haywood, Ben < Ben. Haywood@highpeak.gov.uk >; de Bruin, Nicola

< Nicola.deBruin@highpeak.gov.uk > Subject: 184 Taxal Edge site visit

Hi,

I've still not had a response from Mr XXXXXX.

What happens if he doesn't respond? Or shall I get a 1st class recorded delivery letter in the post today?

Andy

Andy Thomas
Compliance and Monitoring Officer
Tel 01298 28400 – extension 4172
Mobile: 07583 071686





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Subject:

FW: 184 Taxal Edge site visit

From: Colley, Jane < Jane. Colley@highpeak.gov.uk>

Sent: 21 April 2022 09:22

To: planenforcement HPBC <planenforcement@highpeak.gov.uk>; Simpkin, Rachael.

<<u>Rachael.Simpkin@staffsmoorlands.gov.uk</u>>

Cc: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Subject: RE: 184 Taxal Edge site visit

Morning all,

I've received an email from Mr XXXXXX, so we deal with this. He cant make the 25th but has suggested early May.

Thanks,

Jane

Subject:

FW: Andy Thomas

From: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Sent: 21 April 2022 09:21

To: >

Cc: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>; Colley, Jane <Jane.Colley@highpeak.gov.uk>

Subject: RE: Andy Thomas

Hi Andy

Please see below

Ben

Ben Haywood

Head of Development Services

Staffordshire Moorlands District Council / High Peak Borough Council

Tel: 01538 395400 ext 4924 Mobile: 07976 753764 www.highpeak.gov.uk

www.staffsmoorlands.gov.uk

From: >

Sent: 20 April 2022 21:57

To: Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Subject: Fwd: Andy Thomas

Sent from my iPhone

Begin forwarded message:

From: >

Date: 20 April 2022 at 21:50:48 BST To: Jane.Colley@highpeak.gov.uk

**Subject: Andy Thomas** 

Unable to reply directly as I've been unable to obtain the email for Andy Thomas and reply to planning enforcement therefore sent to Jane Colley and Ben Haywood. Please could you forward this to Andy Thomas as a matter of urgency.

Regards XXXXXX

Sent from my iPhone

Sent:

13 September 2022 14:35

Subject:

FW: URGENT - site visit Taxal Edge

Attachments:

RE: Andy Thomas

From: Thomas, Andy Sent: 21 April 2022 09:40

To: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Subject: URGENT - site visit Taxal Edge

Hi Rachael,

Please see the attached. Mr XXXXXX wants to rearrange for early May, please let me know when in early May will be convenient for you.

#### Andy

### Andy Thomas

Compliance and Monitoring Officer Tel 01298 28400 – extension 4172

Mobile: 07583 071686





www.highpeak.gov.uk www.staffsmoorlands.gov.uk

Subject:

FW: 184 Taxal Edge site visit

From: Simpkin, Rachael. < Rachael. Simpkin@staffsmoorlands.gov.uk >

Sent: 21 April 2022 14:16

To: Colley, Jane < Jane.Colley@highpeak.gov.uk >; planenforcement HPBC < planenforcement@highpeak.gov.uk > Cc: Haywood, Ben < Ben.Haywood@highpeak.gov.uk >; de Bruin, Nicola < Nicola.deBruin@highpeak.gov.uk >

Subject: RE: 184 Taxal Edge site visit

Hi All,

I'm away from Thursday 28<sup>th</sup> April and back in on the 16<sup>th</sup> May. I wouldn't want to leave it this long – could anyone else accompany Andy please?

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

T: 01538 395 400 x4122 M: 07976 753719

Subject:

FW: Andy Thomas

----Original Message----

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 26 April 2022 15:50

To: >

Cc: planenforcement HPBC <planenforcement@highpeak.gov.uk>

Subject: RE: Andy Thomas

Dear Mr XXXXXX,

Thank you for your email below, Andy Thomas works in the planning enforcement team and therefore as you will note above I have copied the email address for the enforcement team into this email, which Andy will be able to see.

Regards,]

Jane Colley Principal Planning Officer

Subject:

FW: Taxal Edge

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 26 April 2022 15:56

To: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Cc: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: Taxal Edge

Hi Rachael,

Andy and I will hopefully be making a site visit next week to have look inside Taxal Edge. Can I just check which planning consent we are looking at to establish commencement or not. I note that XXXXXXX submitted an email to the appeal from XXXXXXXX which set out that the conditions pursuant to HPK/2013/0503 had been agreed. However, I thought it was HPK/2009/0689 (conversion to 7 apartments and conversion of classroom block) which was the consent which we were interested in, but I might be wrong!

Cheers,

Jane Colley Principal Planning Officer

High Peak Borough Council and Staffordshire Moorlands District Council

Direct Dial: 01298 28400 ext 4981

Mobile: 07976 753726

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Sent:

13 September 2022 14:44

Subject:

FW: Taxal Edge

Attachments:

FP-2011-0212.pdf; 100319 1st and 2nd Floor Rev 10\_358\_02.pdf; 100319 Ground Floor Rev 10\_358\_01.pdf; 100319 Existing and Proposed West Elevationg Rev 10\_358\_03.pdf; 100319 Existing and Proposed South Elevation Rev 10\_358\_04.pdf; 100319 Existing and Proposed East Elevation Rev 10\_358\_05 Rev A.pdf; 100319 Existing and Proposed North Elevation Rev 10\_358\_06 Rev

A.pdf

From: Simpkin, Rachael. <Rachael.Simpkin@staffsmoorlands.gov.uk>

Sent: 26 April 2022 16:25

To: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Cc: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>; de Bruin, Nicola <Nicola.deBruin@highpeak.gov.uk>

Subject: RE: Taxal Edge

Hi Jane,

Thanks both.

We do not agree that the conditions have been satisfied for the 2013 PP but is a different matter for the PI.

#### HPK/2009/0689:

Emery's statement refers to a single apartment being implemented and we need to check how this has physically occurred -

I have attached the relevant building control record which shows the said ground floor apartment.

As well as checking the rest of the building for evidence of a HMO given neighbour complaints and extensive parking onsite please?

Are you happy to scribble on the plans for the 2009 PP please? I'm not expecting a full survey.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

T: 01538 395 400 x4122 M: 07976 753719

Subject:

FW: Taxal Edge

From: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Sent: 29 April 2022 09:31

To: Thomas, Andy <Andy.Thomas@highpeak.gov.uk>

Subject: FW: Taxal Edge

FYI. Can you do a land registry check on the building to confirm what he says below?

Thanks,

Jane

From: >

Sent: 28 April 2022 19:58

To: Colley, Jane < Jane.Colley@highpeak.gov.uk>

Cc>

Subject: Taxal Edge

### Dear Ms Colley and Mr Thomas,

Following on from your last email, the 4<sup>th</sup>May would not be convenient for me. Having said that, I am no longer the legal owner of the property so I would not be able to give you the access that you are requesting. In light of this, I have been in touch with the legal owners XXXXX who purchased the property from me and they have confirmed that one of their representatives would be available to meet you there on Wednesday 4<sup>th</sup> May 2022 at 10am.

I have copied in XXXXXX who is the Company Secretary at XXXXXXX in for reference. Please can you confirm directly with her that the above time and date is still suitable and who will be attending?

Regards, XXXXXX

Sent from my iPad

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Sent:

13 September 2022 14:54

Subject:

FW: Taxal Edge

Attachments:

Title Plan View - DY413836.pdf; Register View - DY413836.pdf

From: Thomas, Andy Sent: 29 April 2022 09:46

To: Colley, Jane <Jane.Colley@highpeak.gov.uk>

Subject: RE: Taxal Edge

Hi Jane,

Please see the attached.

They're exactly the same as the ones in HPC/2022/00037 – Land Registry Docs folder – Nicola did an official copy too for the enforcement notice. Which also says XXXXXXX own the buildings . I did a fresh LR search this morning in case anything had changed since our site visit.

Andy

THIS IS A PRINT OF THE VIEW OF THE REGISTER OBTAINED FROM HM LAND REGISTRY SHOWING THE ENTRIES SUBSISTING IN THE REGISTER ON 29 APR 2022 AT 09:38:38. BUT PLEASE NOTE THAT THIS REGISTER VIEW IS NOT ADMISSIBLE IN A COURT IN THE SAME WAY AS AN OFFICIAL COPY WITHIN THE MEANING OF S.67 LAND REGISTRATION ACT 2002. UNLIKE AN OFFICIAL COPY, IT MAY NOT ENTITLE A PERSON TO BE INDEMNIFIED BY THE REGISTRAR IF HE OR SHE SUFFERS LOSS BY REASON OF A MISTAKE CONTAINED WITHIN IT. THE ENTRIES SHOWN DO NOT TAKE ACCOUNT OF ANY APPLICATIONS PENDING IN HM LAND REGISTRY. FOR SEARCH PURPOSES THE ABOVE DATE SHOULD BE USED AS THE SEARCH FROM DATE.

THIS TITLE IS DEALT WITH BY HM LAND REGISTRY, NOTTINGHAM OFFICE.

TITLE NUMBER: DY413836

There is no application or official search pending against this title.

# A: Property Register

This register describes the land and estate comprised in the title.

DERBYSHIRE : HIGH PEAK

- (11.04.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak (SK23 7DR).
- 2 (11.04.2007) There are excluded from this registration the mines and minerals excepted by a Conveyance of the land in this title dated 6 March 1961 made between (1) Susan Dorothy Mostyn-Owen-Jodrell (2) John Dudley Robert Tarleton Tilney and Philip Brian Martineau and (4) Peter Quixano Henriques And Others.

NOTE: Copy filed.

- 3 (11.04.2007) The Conveyance dated 6 March 1961 referred to above contains a provision as to light or air.
- 4 (15.08.2017) A new title plan based on the latest revision of the Ordnance Survey Map has been prepared.
- 5 (15.08.2017) The land edged and numbered in green on the title plan has been removed from this title and registered under the title number or numbers shown in green on the said plan.
- 6 (15.08.2017) The land has the benefit of any legal easements reserved by a Transfer of the land edged and numbered DY515418 in green on the title plan dated 31 March 2016 made between (1) Raymond Butler and (2) Gary Stephen Cullen and Gail Cullen but is subject to any rights that are granted by the said deed and affect the registered land.

NOTE: Copy filed under DY515418.

# B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

# Title absolute

- 1 (17.09.2019) PROPRIETOR: TREVILLE PROPERTIES LIMITED (Co. Regn. No. 05546647) of 184 Macclesfield Road, Whaley Bridge, High Peak SK23 7DR.
- 2 (17.09.2019) The price stated to have been paid on 30 August 2019 was £775,000.
- 3 (17.09.2019) The Transfer to the proprietor contains a covenant to comply with the covenants in the Charges register and of indemnity in respect thereof.
- 4 (17.09.2019) RESTRICTION: No disposition of the registered estate by

# B: Proprietorship Register continued

the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 30 August 2019 in favour of Seddon Investments Limited referred to in the Charges Register , or his conveyancer.

# C: Charges Register

This register contains any charges and other matters that affect the land.

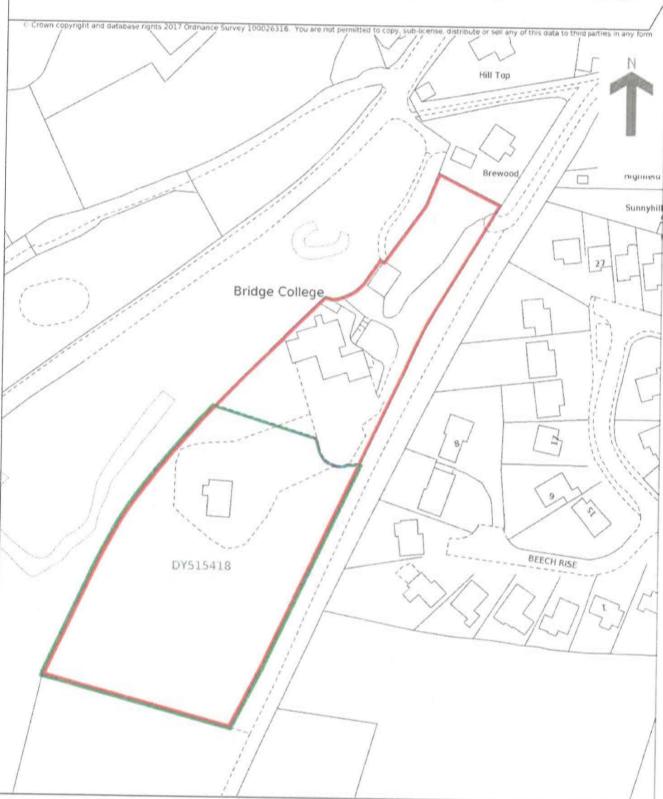
- 1 (17.09.2019) REGISTERED CHARGE dated 30 August 2019.
- 2 (17.09.2019) Proprietor: SEDDON INVESTMENTS LIMITED (Co. Regn. No. 10257546) of Arden Lea, 470 Chorley New Road, Bolton BL1 5AZ.

End of register

# HM Land Registry Current title plan

Title number DY413836
Ordnance Survey map reference SK0080SW
Scale 1:1250 enlarged from 1:2500
Administrative area Derbyshire : High Peak





This is a print of the view of the title plan obtained from HM Land Registry showing the state of the title plan on 29 April 2022 at 09:40:28. This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

Subject:

FW: Taxal Edge

From: planenforcement HPBC Sent: 29 April 2022 11:25

To: >

Cc: Colley, Jane <Jane.Colley@highpeak.gov.uk>;

Subject: FW: Taxal Edge

Dear Mr XXXXXX,

Thank you for your email.

I can confirm that myself and Jane Colley will be visiting Taxal Edge at 10am on May  $4^{th}$  and I note we will be met on site by a representative from Treville Properties.

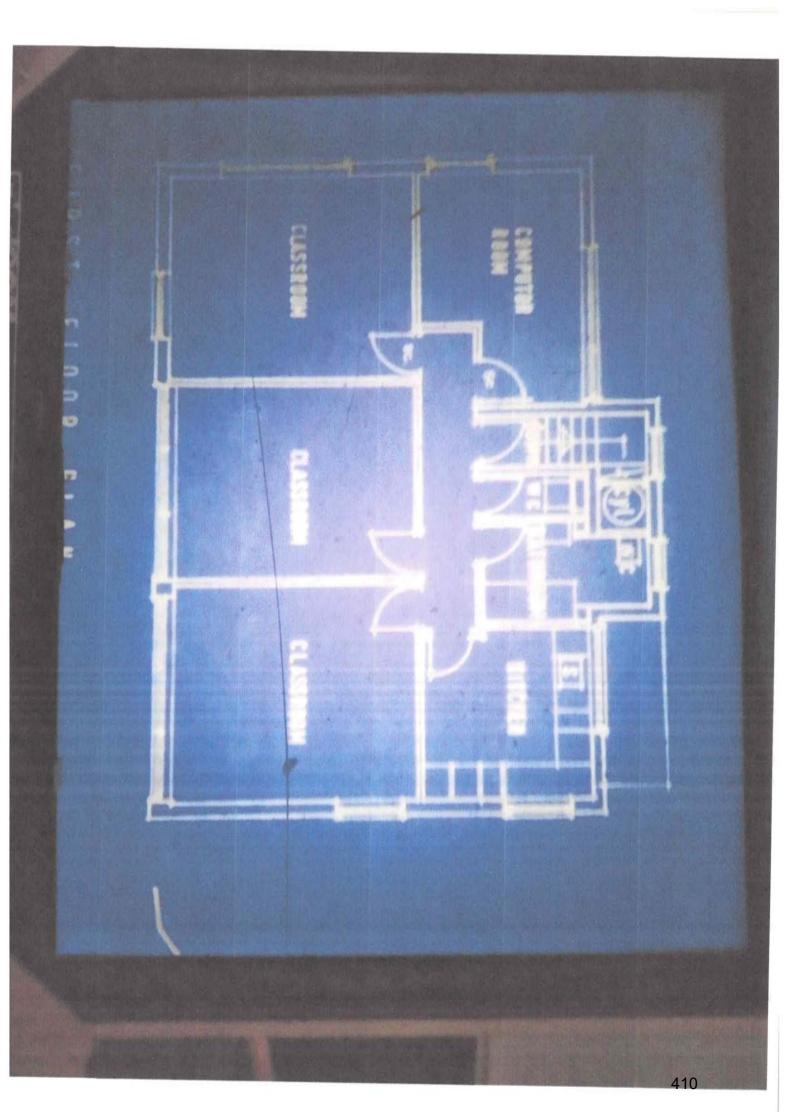
### Kind regards

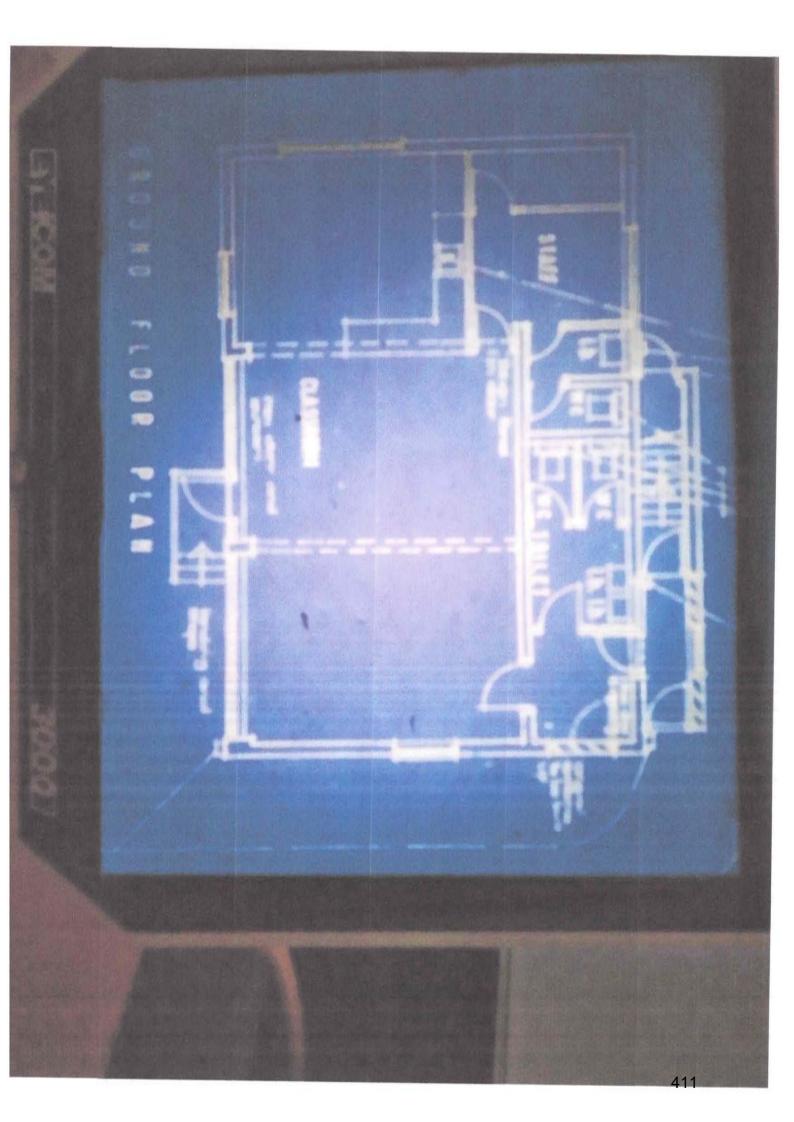
Andy Thomas Compliance and Monitoring Officer Tel 01298 28400 – extension 4172 Mobile: 07583 071686

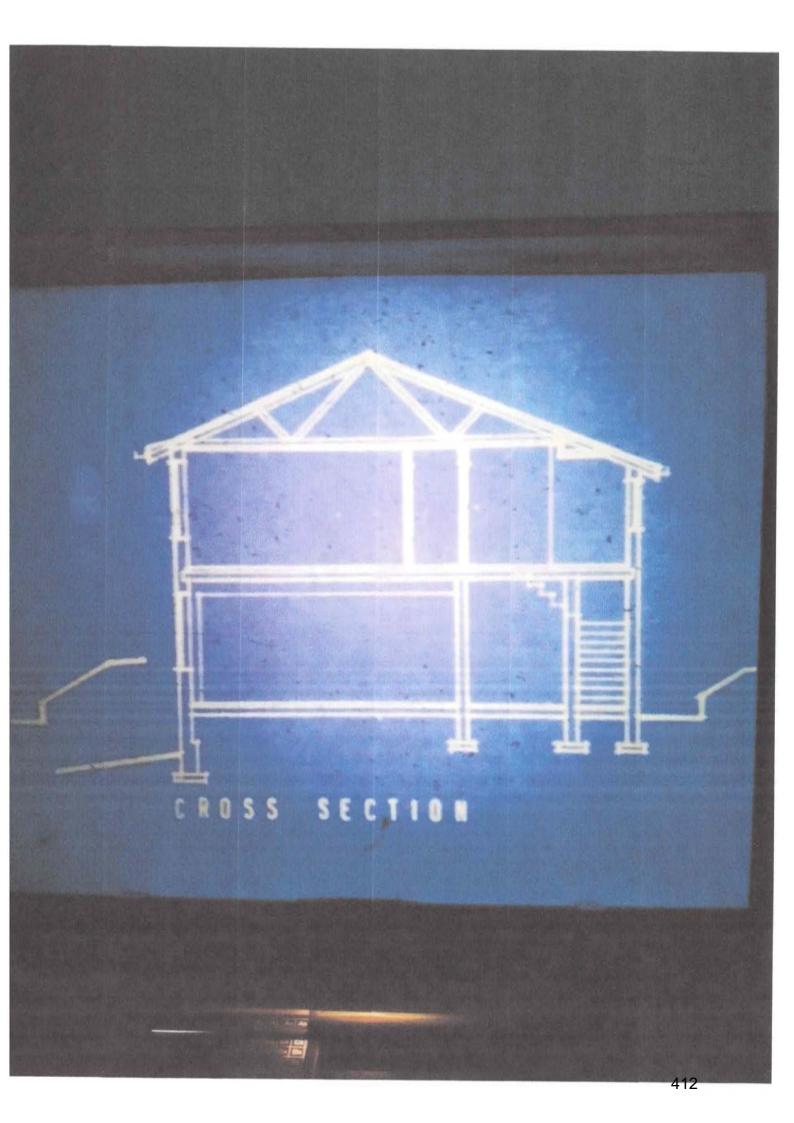


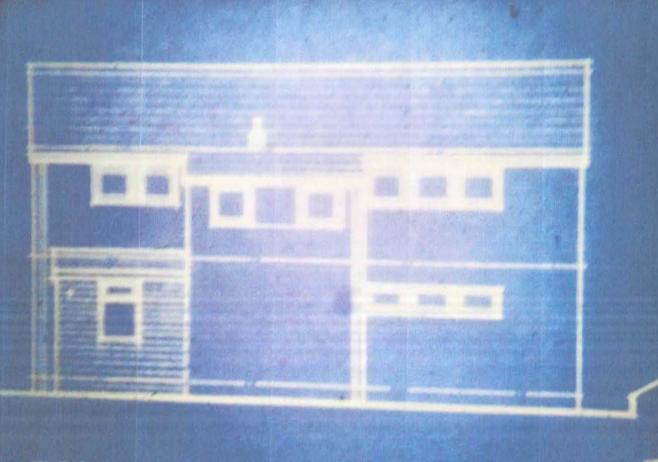


www.highpeak.gov.uk www.staffsmoorlands.gov.uk





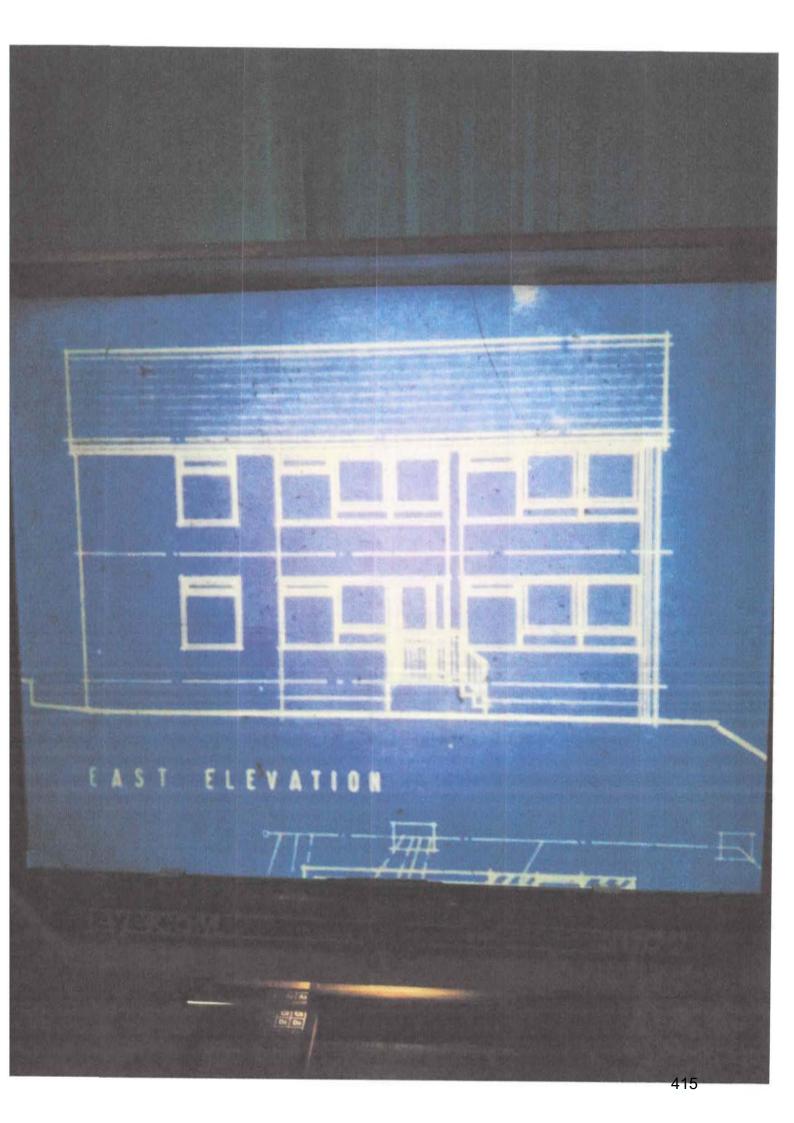




WEST ELEVATION



NORTH ELEVATION



I Andrew Robert Nixon of 122 St Johns Road, Congleton, CW12 2AX, date of birth 01/01/1969, do solemnly and sincerely declare that Exhibit A is a true representation of the appearance of 'The Former Classroom Block' (A.K.A. The School House) Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR during the times I spent with friends up there who lived at the Convalescent Home in the early 1980's. The building had a door on the north side and the east side was all windows, no door or steps.

Although I didn't personally attend the convalescent home or the school there, I grew up at 32 Linglongs Avenue Whaley Bridge from the age of around 7 years old. Around the ages of 13-15 years old I had friends who attended the Convalescent home in the early 80's. It was a regular occurrence at weekends for me and my friend to be invited round to see our friends who stayed there. We would hang out in the games room playing pool and in the gym. The school house as I know it was clearly visible from both the games room and the gym. See exhibit B Layout plan.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

Full Name:

Signature:

Date:

Signature:

Figurey and Williams LLP 25 Marks: Street Chapel an le Frith

Occupation:

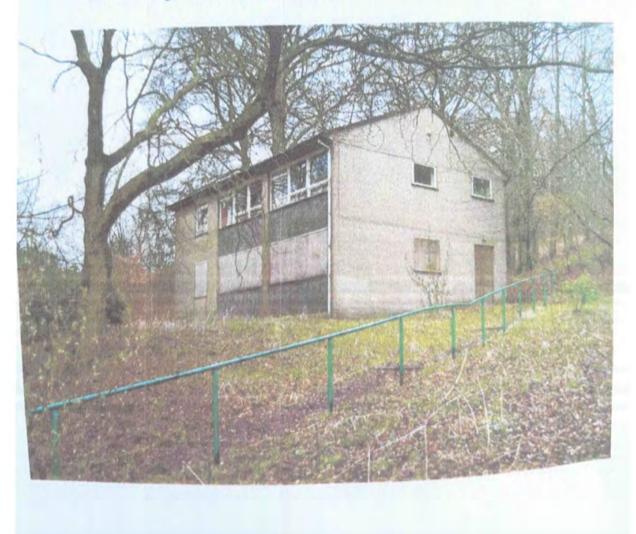
High Peak Derbysnire SK23 0HS Tel: 01298 812138

Date:

Fax: 01298 815097 Email: chape @cshw.co.uk **Exhibit A** — 'The Former Classroom Block' Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR, Image from the Frank Marshall Sales Particular at the time The Together Trust were selling, Photo is circa 2006

OTES

- 1. Prospective purchasers are advised that none of the appliances or equipment referred to have been tested and as such we are unable to comment on their condition.
- 2. An approach has been made by the owner of the adjoining "Brewood" to purchase a section of land adjoining his property.



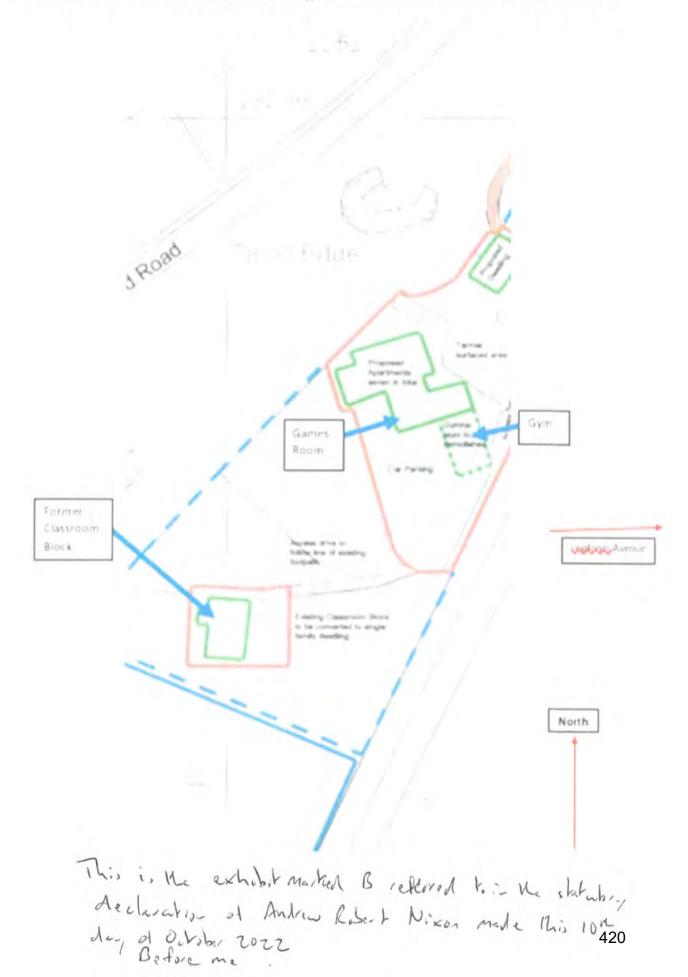
This exhibit of 2 pages is the exhibit marked A referred 1. In the statutory technology at Andrew Robert Nixon made this ion day of October 2022 Schre

418

**Exhibit A** — 'The Former Classroom Block' Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR - Image provided by R. Butler, taken circa 2009



**Exhibit B**—Taxal Edge, 184 Macclesfield Road, Whaley Bridge, High Peak, SK23 7DR, Section of HPK/2009/0689 Layout Plan with games room, gym and former classroom block demonstrated on it.



Treville Properties Co Elmwood House Church Lane **New Mills** HIGH PEAK **SK22 4NP** 07768091993 01663 742555



Manufacturers of High Quality uPVC Windows, Doors and Conservatories

Supply Only Quotation / Contract

Quote No:201050 Contract No:

42 Newby Road Hazel Grove Stockport Cheshire SK7 5DA 0161 482 2323 Fax 482 2324

Alexander Windows Ltd

### **Prepared by Andrew Hardy**

Job Reference:

N.B. all items are viewed from the OUTSIDE

September 22, 2017 Drawing dimensions are overall sizes inc. cills and frame extenders.

NB: We only use internal sizes for the quotation and manufacture of bays, bows, porches & conservatories

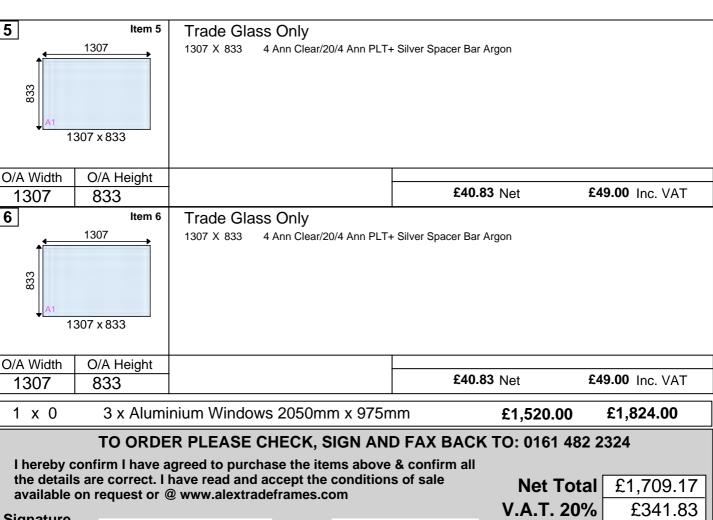
All Window and Door Graphics along with lead and Georgian Glass layouts are representative only and subject to your confirmation

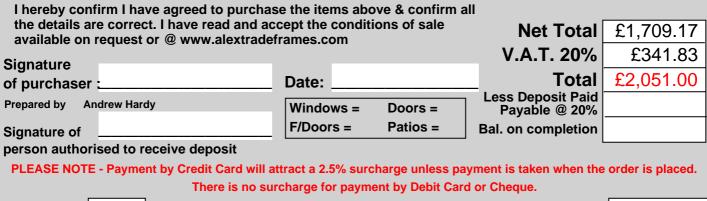
4	Table Olean Oak	cot to your committation		
533 Item 1	Trade Glass Only			
533 x 743	533 X 743 4 Ann Clear/20/4 Ann PLT+	- Silver Spacer Bar Argon		
O/A Width O/A Height				
533 743		£21.67 Net	£26.00 Inc. VAT	
533 Item 2 533 x 743	Trade Glass Only 533 X 743 4 Ann Clear/20/4 Ann PLT-	⊦ Silver Spacer Bar Argon		
O/A Width O/A Height		204.07.11	202.00	
533 743		£21.67 Net	£26.00 Inc. VAT	
533 x 743	Trade Glass Only 533 X 743 4 Ann Clear/20/4 Ann PLT+	- Silver Spacer Bar Argon		
O/A Width O/A Height				
533 743	]	£21.67 Net	£26.00 Inc. VAT	
1307 × 833	Trade Glass Only 1307 X 833 4 Ann Clear/20/4 Ann PLT+	<u> </u>		
1307 EE		<u> </u>	£49.00 Inc. VAT	

**Quote No:** 

201050

22/09/2017 11:58:35





Collection / Delivery Date: 30-Dec-99 All Quotations are valid for ONE calendar month



Tel No: 0161 482 2323 Fax No: 0161 482 2324





Payment Due Date:



Alexander Windows Ltd

42 Newby Road Industrial Estate, Hazel Grove, Stockport, SK7 5DA.

Registered in England No. 2599172 VAT No. 593 6400 27 Directors: S.Wood, G.J.Wood.



Quote No:

201050

Checked by:

Scan these using QR code reader available as free download for your smartphone or iphone.



Doc 325 Page 2 of 2

22/09/2017 11:58:35

# EP10



# 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

#### 1.1 Introduction

- 1.1.1 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.
- 1.1.2 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

1.2.1 The proposed development comprises of 3 detached and 4 semi-detached new dwellings.

#### 1.3 3D Model

- 1.3.1 A 3D model has been developed of the proposed development and surrounding trees. This is shown in Figure 1.
- 1.3.2 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.

- 1.3.3 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.
- 1.3.4 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 then deep shadow of a building.

- 1.3.5 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.
- 1.3.6 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.

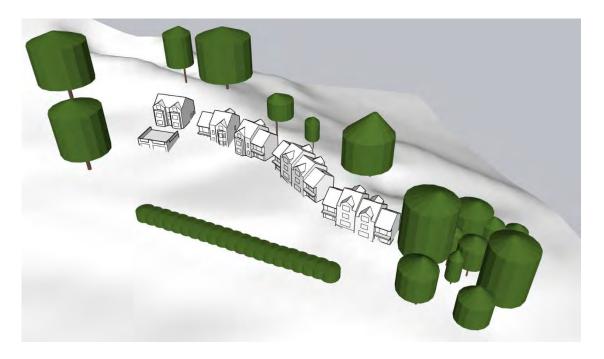


Figure I - Proposed development area and surrounding trees

### 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. I

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.

<sup>&</sup>lt;sup>1</sup> 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 I 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 I: APSH and WPSH

Plot	Room	APSH	WPSH	Complies with BR 209 recommendations
I	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 then 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.

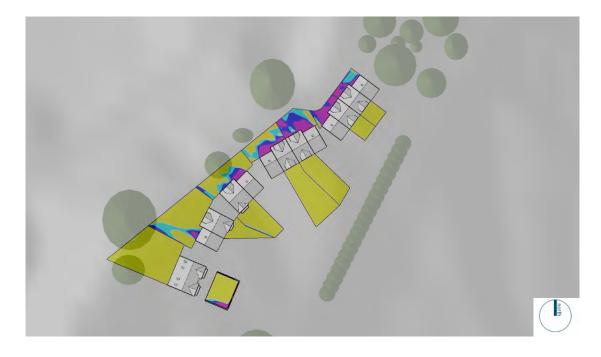


Figure 2: Amenity assessment with opaque trees modelled

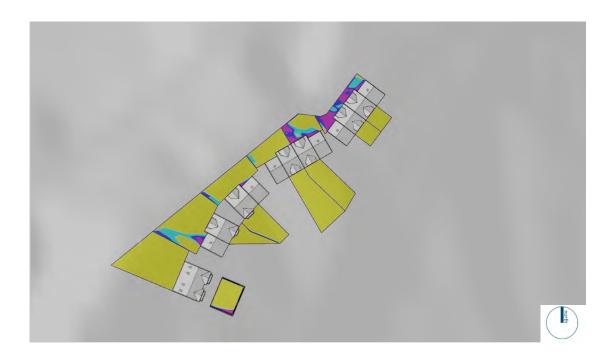


Figure 3: Amenity assessment with no trees modelled

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 I, 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 I, 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.

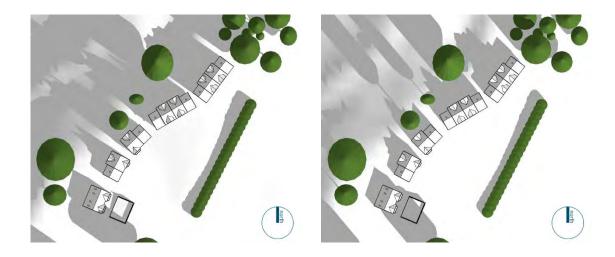


Figure 4 & 5: Shadow cast at 09:00am and 10:00am on 21 March

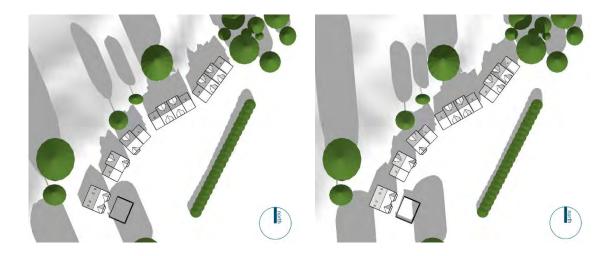


Figure 6 & 7: Shadow cast at 11:00am and 12:00am on 21 March

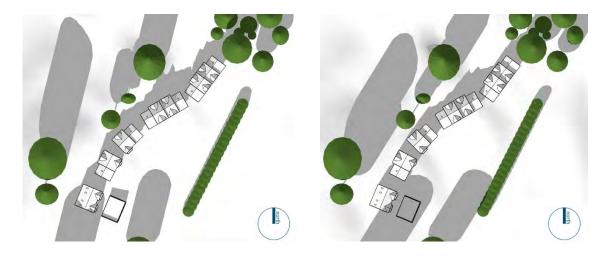


Figure 8 & 9: Shadow cast at 13:00pm and 14:00pm on 21 March

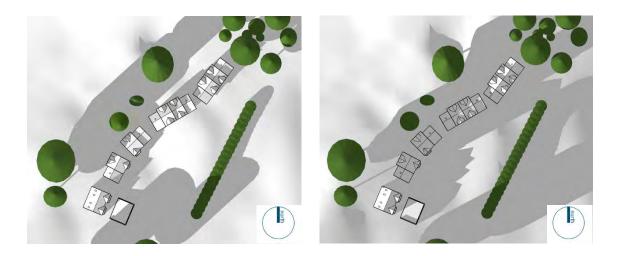


Figure 10 & 11: Shadow cast at 15:00pm and 16:00pm on 21 March

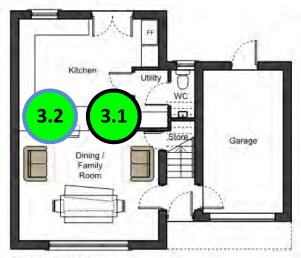
### 3 Conclusions

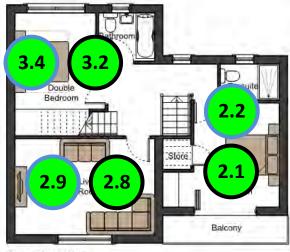
- 3.1.1 An assessment of the daylight and sunlight levels of the proposed 7 dwellings, has been undertaken in accordance with guidance set out in BRE report 209, Site Layout Planning for Daylight and Sunlight: A guide to good practice, Second Edition, 2011 (BR 209), and BS 8206-2 Code of Practice for 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:
  - 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 I, 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** 

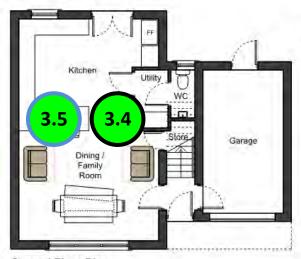
Typical House Type A (4 Bedroom) Total Area: 172m<sup>2</sup>

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: 172m<sup>2</sup>

plus garage @ 16m²

First Floor Plan

Second Floor Plan

**Proposed Floor Plans - Plot 2** 







**Ground Floor Plan** 

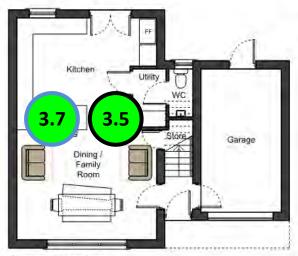
Typical House Type A (4 Bedroom) Total Area: 172m<sup>2</sup>

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: 172m<sup>2</sup>

Total Area: 172m² plus garage @ 16m²

First Floor Plan

Second Floor Plan

**Proposed Floor Plans – Plot 4** 





plus garage @ 18m2

Proposed Floor Plans - Plot 6 Scale 1:100 @ A3

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ption for LFirst Floor



**Ground Floor Plan** 

House Type C (6 Bedroom)

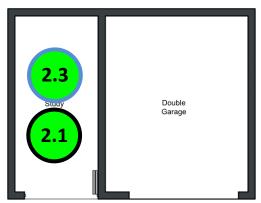
Total Area: 257m<sup>2</sup> plus garage

First Floor Plan

Second Floor Plan

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Detached Garage Plan (Terrace Over) Total Ground Floor Area: 73m<sup>2</sup>

### **Proposed Floor Plans** Scale 1:100 @ A1

# EP11

### **Lynn Jones**

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 < <u>support@emeryplanning.com</u>>

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 nSitOd8nvBZxGuI3zbZ3 MGHa6eJ-K26I0QJIpPi6xxRUkeodWC5JaFon5ZcC9KbW4-NQQweQKFonmRbTfYKylwl0lBIzbsOJWKw\_tTXn38YSf5yxYtl0lYvWng8J1kUQc-o\_p3VSfQC-4DzsYKWZCSA9Vtd2GZLnKGbNLOXK1NqKWl47NsGXR2W\_w4Dt4A1LYDlfoOHttmB8PhVzlIrrZ6z6zVhAMkh6xQcostWlV91ag8KEbLqhmuhqJTP1moJ8Ep6FklM6yF5oTTOklxj2dE-sG0



