

**JOINT STATEMENT OF COMMON GROUND**

**11<sup>th</sup> NOVEMBER 2022**

**DATE OF INQUIRY: 15<sup>th</sup> to 18<sup>th</sup> November 2022**

**VENUE: Lee Wood Hotel, 13 Manchester Road, Buxton, SK17 6QT**

**Appeal A reference: APP/H1033/C/22/3297854 is the enforcement appeal.**

**SITE ADDRESS: This appeal relates to the building known as the “Classroom Block”, on land at 184 Taxal Edge, Macclesfield Road, Taxal Edge, Whaley Bridge, Derbyshire, SK23 7DR, shown edged red on the attached plan numbered EN01 (the land).**

**DESCRIPTION OF APPEAL: Against an enforcement notice alleging, 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 fenestration on the eastern elevation.**

**APPELLANT: Mr Gary Stephen Cullen**

**Appeal B reference APP/H1033/W/21/3272745 is the planning appeal.**

**SITE ADDRESS: Land at 184 Taxal Edge, Macclesfield Road, Whaley Bridge, SK23 7DR**

**DESCRIPTION OF DEVELOPMENT: Demolition of the existing building known as “Taxal Edge” and the detached garage building and the erection of 7 no. dwellings.**

**APPELLANT: Treville Properties Ltd**

**LOCAL PLANNING AUTHORITY: High Peak Borough Council**

**This statement addresses the following areas of common ground in relation to Appeals A and B:**

- 1. Introduction**
- 2. Description of site and area**
- 3. Land ownership**
- 4. Planning history of site**
- 5. Development plan (including relevant policies and Supplementary planning guidance)**
- 6. Section 106 agreement**
- 7. Matters of agreement and disagreement**
- 8. List of agreed plans**
- 9. List of possible conditions and the reasons for them (including any that are not agreed, with reasons why)**
- 10. Signed Agreement**

## 1. Introduction

- 1.1 This statement of common ground relates to Appeal A for which the Council's enforcement reference is HPE/2019/0014. References to the appeal site are described in the Enforcement notice the subject of the appeal and shown on the enforcement notice plan at EN1. References to the classroom block are to the building the subject of the notice that does not have a postal address.
- 1.2 This statement of common ground also relates to Appeal B, for which the Council's planning application reference is HPK/2020/0301 for the demolition of the existing building known as "184 Taxal Edge" and the detached garage building and replacement with the erection of 7 no. dwellings. An outbuilding containing a double garage / study with patio above are also proposed for Plot 7 and the former classroom block.

## 2. Description of site and area

- 2.1 Appeal sites A and B lie to the north-west of the Whaley Bridge settlement outside of the built-up area boundary on land designated as open countryside as defined by the High Peak Local Plan 2016 and is identified as falling within the Settled Valley Pastures Landscape Character Type in the Landscape Character Supplementary Planning Document SPD5 (March 2006). Rising land to the rear (northwest) of the appeal sites is part of a woodland ridge, with further open countryside beyond.
- 2.2 The appeal sites are accessed via Macclesfield Road, Whaley Bridge. PROW HP/23/56/1 (Public Right of Way) runs along the lane at the entrance from Macclesfield Road and then along the south-eastern boundary of appeal site B. This south-eastern boundary of appeal site B comprises of a stonewall with an opening providing access to the PROW.
- 2.3 To the south-east of the PROW HP/23/56/1 beyond the appeal sites are the rear gardens of the residential properties on Beech Rise and Linglongs Avenue, which are also defined by a stonewall boundary. These properties are set at a lower level and fall within the defined settlement boundary of Whaley Bridge.
- 2.4 To the north-east of the former classroom block (subject to Appeal A) is the property known as Taxal Edge, 184 Macclesfield Road (subject to Appeal B), and beyond are further detached residential properties (Brewood, Hilltop and Woodside), which are also accessed via the beginning of the track from Macclesfield Road to appeal sites A and B.
- 2.5 Derbyshire County Council Tree Preservation Order No. 175 'Trees at Taxal Edge, Walker Brow' and its Schedule is detailed at core document ref. CD10.3. The TPO covers parts of the appeal site and wider area.

### *Appeal A*

- 2.6 The location of Appeal Site A is shown on plan EN1 attached to the enforcement notice, which comprises the former classroom block and its immediate surroundings. Vehicular access to the classroom block is via the unadopted lane off Macclesfield Road, and through the site of 184 Taxal Edge, Macclesfield Road, the site of Appeal B.

- 2.7 The enforcement appeal site itself is located on land to the south-west of 184 Taxal Edge, Macclesfield Road. The site plan (submitted with the enforcement notice) shows the location of the classroom block.
- 2.8 The classroom block (subject of the enforcement appeal) is currently in use as a dwelling. It was built in the 1970's and historically used as a classroom associated with the former boarding school / hostel at 184 Taxal Edge, Macclesfield Road. In 2010, planning permission was granted for its change of use to residential in relation to consent HPK/2009/0689 dated 29<sup>th</sup> March 2010.
- 2.9 The classroom block is situated at a higher level than the public right of way (PROW), Beech Rise, Linglongs Avenue, and Linglongs Road.

### *Appeal B*

- 2.10 Appeal site B comprises of 184 Taxal Edge Macclesfield Road and surrounding land. The main building known as 184 Taxal Edge is a large Edwardian property, which was formerly a boarding school / hostel. The original building was constructed in 1918 and additions included a gymnasium building, changing rooms and external fire escapes.
- 2.11 There is an overlap between the two appeal sites A and B measuring approximately 100.00 square metres, which is proposed for a double garage / study with patio above for the former classroom block in relation to Appeal B.

### **3. Land ownership**

- 3.1 For Appeal B, Treville Properties Ltd do not own the land forming the access track from the adopted highway, which was included in the appeal red edge location plan.

### **4. Planning history of site**

- 4.1 A summary of the relevant planning history of the site is set out below, together with references to the associated Core Documents. At the time of writing, the status of these documents have not been agreed between the parties.

***HPK/0002/5081 – Additional car parking provision adjacent to the main driveway – approved 6th April 1987***

Core document reference CD9.1 a to c.

***HPK/2008/0069 – Change of use of Taxal Edge from a boarding hostel and associated ancillary residential accommodation to use as a single dwelling – approved 28th March 2008***

Core document reference CD9.2 a to d.

**HPK/2009/0209 – Change of use from a single dwelling to 10 apartments involving internal alterations only – withdrawn 26th June 2009**

***HPK/2009/0689 – Conversion of Taxal Edge to provide 7 no. apartments and the conversion of the classroom block and disused garage to 2 no. detached houses – approved 29th March 2010.***

Core document reference CD9.3 a to w

In relation to conditions pertinent to HPK/2009/0689 it is agreed that the HPBC Condition Discharge Letter CD9.3u dated 19<sup>th</sup> December 2012:

- Confirms that Conditions 3, 4, 6, 7 are discharged,
- Condition 9 is subject to the approved details in Condition 4 for a post and wire fence to close the existing access adjacent to Brewood to prevent vehicles from the site entering to and from Macclesfield Road and is to be erected prior to the commencement of development to meet with the provisions of Condition 9, and,
- It has not been agreed between the parties whether condition 8 has been discharged.

Condition 8 requires:

*8. Before any other operations are commenced, the existing access to Macclesfield Road (B5470) shall be modified in accordance with the (revised) application drawings, laid out, constructed and provided with [dimensions] visibility splays in either direction, the area in advance of the sightlines being maintained clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.*

The LPA are not aware of Condition 12 having been discharged. The appellant's position is that the same details were submitted to satisfy condition 12. The LPA's position is that only Condition 7 was deemed to be acceptable by the LPA.

Condition 12 requires:

*12. Prior to the commencement of development full details of the construction of the access track to the upper parking area, including any necessary engineering works, shall be submitted for approval to the Local Planning Authority. The works shall thereafter be implemented in accordance with the approved plans.*

HPBC Condition Discharge Letter dated 15th April 2013 CD9.3w

- HPBC consider that Condition 2 was not discharged. The appellants position is Condition 2 was partially discharged.

***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***

Core document reference CD9.4 a to n.

**HPK/2015/0518 – Outline planning application for 2 no. semi- detached dwellings – refused 11th December 2015**

**HPK/2020/0301 – Demolition of the existing building known as “Taxal Edge” and the detached garage building and the erection of 7 no. dwellings. The subject of Appeal B.**

Applications HPK/2013/0503 and HPK/2015/0518 do not relate to the former “Classroom Block”.

## **5. Development Plan**

- 5.1 The development plan for the site is the High Peak Local Plan (HPLP adopted 2016).
- 5.2 The site falls within an area of countryside between the built up area boundary and the Green Belt.
- 5.3 The following policies of the HPLP are relevant:
- Policy S 1: Sustainable Development Principles;
  - Policy S 1a: Presumption in Favour of Sustainable Development;
  - Policy S 2: Settlement Hierarchy;
  - Policy S 3: Strategic Housing Development;
  - Policy S 6: Central Sub-area;
  - Policy EQ 1: Climate Change;
  - Policy EQ 2: Landscape Character;
  - Policy EQ 3: Rural Development;
  - Policy EQ 5: Biodiversity;
  - Policy EQ 6: Design and Place Making;
  - Policy EQ 7: Built and Historic Environment;
  - Policy EQ 8: Green Infrastructure;
  - Policy EQ 9: Trees, Woodland and Hedgerows;
  - Policy EQ 10: Pollution Control and Unstable Land;
  - Policy EQ 11: Flood Risk Management;
  - Policy H 1: Location of Housing Development;
  - Policy H 2: Housing Allocations;
  - Policy H 3: New Housing Development;
  - Policy H 4: Affordable Housing;
  - Policy CF 3: Local Infrastructure Provision;
  - Policy CF 4: Open Space, Sports and Recreation Facilities;
  - Policy CF 6: Accessibility and Transport; and
  - Policy CF 7: Planning Obligations and Community Infrastructure Levy.
- 5.4 Appeal A specifically refers to Local Plan Policies EQ2, EQ3 and EQ6.

5.5 The following supplementary planning documents are relevant:

- High Peak Design Guide SPD (February 2018)
- Adopted Residential Design SPD (December 2005)
- Landscape Character SPD (March 2006)

5.6 Other material considerations, including the NPPF, particularly in relation to sections:

- 2: Achieving sustainable development
- 4: Decision Making
- 5: Delivering a sufficient supply of homes
- 11: Making effective use of land
- 12: Achieving well designed places
- 15: Conserving and enhancing the natural environment

5.7 Other material considerations in relation to both appeals include but are not restricted to site photographs and aerial photographic images.

5.8 The High Peak Enforcement Guide (Adopted November 2020) and NPPG Enforcement and Post Permission Matters (22 July 2019) are material considerations in relation to Appeal A.

## **6. Section 106 agreement**

6.1 The appellant considers a Section 106 agreement is not required as no works are required to third party land outside of the red edge, save for limited works within the highway which can be dealt with by condition. The LPA considers that the requirement for a S106 agreement or otherwise is yet to be confirmed in relation to land ownership matters.

## **7. Matters of agreement and disagreement**

7.1 General matters that are agreed:

### *Appeal A*

7.2 The enforcement notice does not require the residential use of the classroom block to cease.

7.3 The external changes to the classroom block referred to in the enforcement notice include:

- raising of the roof;
- increased steepness of the roof slope;
- x 3 dormer windows with pitched roof along the eastern roof slope;
- Changes to windows and doors

7.4 Other alterations to the original building that are not referred to in the Notice include a small extension to the rear; alterations to the North elevation, and external stone facing work on all elevations.

7.5 With regard to the appeal under ground D, the glazing units for the ground floor and first floor of the East elevation were installed less than 4 years prior to the service of the Notice.

7.6 The appellant states that the time given to comply with the notice (6 months) is too short (Ground G). The Local Planning Authority considers 12 months is acceptable.

### *Appeal B*

7.7 The appeal development is acceptable in respect of the following matters and / or the relevant matters can be addressed through the use of agreed planning conditions:

- Highways and accessibility considerations ,
- Arboricultural considerations (The LPAs viewpoint : is save as to impact on residential amenity)
- Drainage, and
- Ecology, including bats (refer to Derbyshire Wildlife Trust Statement dated 10th March 2022 core document ref. CD14.14).

7.8 It is agreed there is no requirement for affordable housing.

7.9 The proposed mix of house types is appropriate and does not conflict with local planning policy.

7.10 The Council assert it can currently demonstrate 6.28 years supply of housing land (as at 1st April 2022). The appellant has not interrogated the LPA's asserted 6.28 years supply and is not seeking to challenge the LPA's housing supply in connection with the appeals. Accordingly, for decision makers this means approving development proposals that accord with an up-to-date development plan without delay (NPPF para 11c).



7.11 General matters that are not agreed:

*Appeal A: Detailed matters of disagreement*

	<b>Appellant Position</b>	<b>LPA Position</b>
a	<p><b>Proposition 1</b></p> <p>That there has not been a breach of planning control (Ground C) in respect of the fenestration on the east elevation of the building as the works do not constitute development and do not involve material changes to the building.</p>	<p>That there has been a breach of planning control. The changes made are development as defined in section 55 of the TCPA, but have not been made in accordance with any valid planning consent and are not permitted development.</p>
B	<p>The new windows were inserted within the existing openings after removing modular windows with panels between the glazing. Even if the alleged changes are found to constitute development, they would 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.</p>	<p>The original windows and existing windows are clearly a different shape and size and are not permitted development because they materially affect the external appearance of the building. Permitted development rights do not apply if the development fails to comply with any relevant exception, limitation or condition set out in the GDPO. Permitted development rights do not extend to the raising of the roof to accommodate the dormers nor do the dormers themselves as they materially affect the external appearance of the building.</p>
c	<p><b>Proposition 2</b></p> <p>At the date the notice was issued, no enforcement action could be taken in respect of the raising of the roof and steepness of the pitch of the roof; and the insertion of three dormer windows on the eastern roof slope as these alterations had become immune from enforcement due to the passage of time. There is clear evidence that these works were complete by 4 November 2017.</p>	<p>The appellant has not provided sufficient evidence that the works to the building were substantially complete 4 years prior to the issuing of the enforcement notice – i.e. by 31<sup>st</sup> March 2018.</p>
d	<p><b>Proposition 3</b></p> <p>The alleged breach of planning control does not conflict with the planning policies referred to in the Notice and is acceptable in planning terms. Planning permission should be granted for the matters alleged in the Notice under Ground A.</p>	<p>The LPA considers that the development has a significant detrimental effect on the character of the area due to adverse impact on landscape and poor design.</p>

e	<p>Proposition 4</p> <p>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)</p>	<p>The LPA considers that rectification can be satisfactorily achieved as set out in the enforcement notice.</p>
f	<p>The steps required by the notice are imprecise and unclear as they require the building to be altered to accord with images EN04 and EN05 (attached to the Notice) that are not to scale and do not include any dimensions. The original fabric of the building is not present in the roof.</p>	<p>The LPA considers that the three requirements of the Enforcement Notice are sufficiently precise and clear to enable the appellant to know what they are required to do. The original fabric of the building lies below the added stone outer skin.</p>
g	<p>184 Taxal Edge and the former classroom block do not have separate utilities supplies.</p>	<p>All utilities appear to be linked to 184 Taxal Edge and no evidence has been provided to suggest otherwise.</p>

7.12 Estimated measurements for the original building are provided in the Council's proof. Actual measurements for the current building have been taken on site with both parties present and will be provided in an annex to this Statement of Common Ground.

*Appeal B: Detailed matters of disagreement*

7.13 The appellant maintains that the proposed development accords with the Development Plan and with the relevant requirements of National Planning Policy contained within the Framework. The Local Planning Authority asserts that the development would not comply with the requirements of the Development Plan or with National Planning Policy.

<b>Topic: Principle of development</b>		
	<b>Appellant position</b>	<b>LPA position</b>
a	<p>The development complies with Local Plan Policy H1. It is supported by the second bullet point of the policy and complies with the requirements in the second part of the policy.</p>	<p>The Council does not agree that the development complies with Local Plan Policy H1 either in respect of the second bullet point or compliance with the second part of the policy.</p>
<b>Topic: Fallback position</b>		
	<b>Appellant position</b>	<b>LPA position</b>
b	<p>The appellant considers that there are currently two lawful dwellings at Taxal Edge</p>	<p>The Council does not accept that the main building 184 Taxal Edge can be lawfully used as a single dwelling house in accordance with HPK/2008/0069: (1) pre-</p>

	<p>The appellant considers that the main building can lawfully be used as a single dwellinghouse or as 7no or 5no apartments (depending upon whether permission reference HPK/2008/0069, HPK/2009/0689 or HPK/2013/0503 is relied upon);</p> <p>The former classroom block can be used as a dwellinghouse;</p> <p>The erection of 2 no semi-detached dwellings can lawfully be completed.</p>	<p>commencement condition 03 does not appear to have been received or discharged by the Local Planning Authority, and, (2) a ground floor apartment has been created. 184 Taxal Edge therefore appears to contain one dwelling unit given Council tax records and an apartment (Flat 1), which may be immune from enforcement action.</p> <p>The Council does not believe it has sufficient information to conclude whether the former classroom block dwelling has been converted in accordance with HPK/2009/0689. Conditions 02, 08 and 12 have not been discharged by the Council.</p> <p>An enforcement notice the subject of Appeal A dated 31.3.22 does not require domestic occupation of the former classroom block to cease if the notice is upheld on appeal.</p> <p>HPK/2013/0503 for 5 apartments and 2 no. semi-detached dwellings cannot be lawfully completed given pre-commencement condition 03, 05, 08, 09, 11 and 13 do not appear to have been received or discharged by the Local Planning Authority.</p> <p>Theoretically, planning permissions references HPK/2008/0069, HPK/2009/0689 and HPK/2013/0503 consents cannot be relied on simultaneously.</p>
c	<p>The above fall-back position is highly relevant when considering the acceptability of the proposed development.</p>	<p>Where there is a lawful fallback position to be taken into account, then a comparison is made between the impact of the proposed development and the impact of the fallback position as a material planning consideration.</p>
<p><b>Topic: Previously Developed Land and Limited Infilling</b></p>		
d	<p>The appellant considers that the whole of the site for the S78 appeal is PDL. The land formed part of the approved curtilage for the dwelling authorised by planning permission reference HPK/2008/0069, and prior to that, was part of the planning unit for the children's home/used for purposes incidental to it. There has been no intervening use.</p>	<p>The Council considers only part of the appeal site can be deemed to be previously developed land as per the NPPF definition.</p> <p>Furthermore, the presence of any PDL does not justify the rest of the site being developed, which requires a consideration</p>

	The case for the appellant is not contingent on the appeal proposals constituting limited infilling under Local Plan Policy EQ3.	<p>of relevant policies in the Adopted Local Plan.</p> <p>Neither would the appeal scheme meet with the Adopted Local Plan definition of limited infilling.</p> <p>For consent HPK/2008/0069, see above, there is no approved curtilage for the appellant to rely on.</p>
<b>Topic: Character and appearance</b>		
	<b>Appellant position</b>	<b>LPA position</b>
e	The proposed development, would not be visually prominent and would not be detrimental to the Settled Valley Pastures Character Area	The Council's position is the appeal scheme would not be well related with the existing pattern of development and surrounding land uses and would lead to a prominent intrusion into the countryside with a significant adverse impact on the character of the countryside.
f	The proposed development reflects local building styles and patterns of development.	The proposed development would not reflect local building styles and patterns of development.
<b>Topic: Amenity</b>		
	<b>Appellant position</b>	<b>LPA position</b>
g	The development plan and associated design guidance contain no specific standards for private outdoor amenity space.	The Council acknowledges that there are no set measurable standards for the quantity of amenity space to be provided and is a matter for planning judgement.
h	The proposed development would provide good standards of residential amenity, including adequate outdoor space.	Good standards of residential amenity, including adequate private outdoor space cannot be achieved in respect of plots 1, 2 and also 3 as confirmed by the appellant's submitted Daylight and Sunlight Assessment dated 28.05.21 (EP14) at CD4.4.

Benefits of the development		
	Appellant position	LPA position
i	The development would provide benefits in respect of the economic, social and environmental objectives of sustainable development	The Council does not consider the appeal proposal is sustainable overall because it would result in the demolition of the large detached Edwardian Villa and its garage with a wholesale site redevelopment of 7 new build dwellings, together with outbuildings that are not well related with the existing pattern of development or surrounding land uses and would lead to a prominent intrusion into the countryside and resultant significant landscape harm.

## 8. List of agreed plans

### *Appeal A*

#### 8.1 List of agreed plans:

- Site location plan (EN01 in enforcement notice HPE/2019/00014).

### *Appeal B*

#### 8.2. List of agreed plans:

- Site Location Plan (TADW drawing no. 411179 10 P4)
- Existing Site Plan (TADW drawing no. 411179 19 P4)
- Proposed Site Plan (TADW drawing no. 411179 20 P14)
- House Type A – Floor Plans and Elevations (TADW drawing no. 411179 21 P8)
- House Type B – Floor Plans and Elevations (TADW drawing no. 411179 22 P7)
- House Type C – Floor Plans and Elevations (TADW drawing no. 411179 23 P7)
- Garage Plan – Floor Plan and Elevations (TADW drawing no. 411179 24 P3)

## 9. Suggested Planning Conditions (Appeal B)

### *Agreed Conditions:*

#### Time Limits

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**Reason:-** To comply with the provisions of Section 51 of the Town and Country Planning, Planning and Compulsory Purchase Act, 2004.

#### Approved Plans

2. The development hereby permitted shall only be carried out in accordance with the following plans:
  - **Site Location Plan (TADW drawing no. 411179 10 P4)**
  - **Proposed Site Plan (TADW drawing no. 411179 20 P14)**
  - **House Type A – Floor Plans and Elevations (TADW drawing no. 411179 21 P8)**
  - **House Type B – Floor Plans and Elevations (TADW drawing no. 411179 22 P7)**
  - **House Type C – Floor Plans and Elevations (TADW drawing no. 411179 23 P7)**
  - **Garage Plan – Floor Plan and Elevations (TADW drawing no. 411179 24 P3)**

**Reason:-** To ensure that the development is carried out in accordance with the submitted details and approved plans, in the interests of good planning, for clarity and the avoidance of doubt.

#### House Type Details

3. Prior to any works taking place above damp proof course level in respect of any building hereby permitted, details of facing materials to be used in the construction of external walls and roofs of the dwellings, garages and chimneys, eaves, verges, windows (including head and sill details), doors (including garage) and hard surfacing (including shared surfaces) within the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall only be implemented in accordance with the approved details.  
**Reason:-** In the interests of the character and appearance of the area.
4. All external doors (including garage doors) and windows shall be set back from the face of the building by a minimum of 30mm.  
**Reason:-** In the interests of the character and appearance of the area.
5. No development hereby permitted shall be commenced until a scheme of all retaining walls and steps (including a sample of the facing wall material) and their future maintenance and management within the site has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling to which they relate. Any other retaining wall shall be carried out in accordance with the approved details prior to the proposed development being brought into first use. The approved scheme shall be maintained for those purposes at all times thereafter.  
**Reason:-** In the interests of the character and appearance of the area and maintaining good amenity standards.

## Levels

6. No development hereby permitted shall be commenced until detailed plans and sections showing both existing and proposed site levels for site, together with the proposed relationship with adjacent land have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.

**Reason:-** In the interests of the character and appearance of the area and maintaining good amenity standards.

## Refuse Storage

7. Prior to any works taking place above damp proof course level of any dwelling hereby permitted, details of the storage of refuse (collection points and in-plot), including details of location, size, means of enclosure and materials shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved refuse storage scheme for that dwelling has been completed and made available for use in accordance with the approved details. The approved scheme shall be maintained for those purposes at all times thereafter.

**Reason:-** In the interests of the character and appearance of the area and highway safety.

## Landscaping

8. No development hereby approved shall be commenced, until a comprehensive landscaping scheme for the approved site (plan ref. 411179 20 P14 Proposed Site Plan) has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include full details of all new trees, shrubs and any other planting, giving specification for species, positions, planting sizes and numbers / densities of all new planting. The landscaping scheme so approved shall be fully implemented before the end of the first available dormant season (November to February inclusive) prior to the first occupation of the development hereby approved. The trees and shrubs etc to be planted in accordance with the approved landscaping scheme shall be properly maintained for a period of 5 years following planting or any other such period as specified by the Landscape and Ecological Management Plan as approved through condition 13. Any plants which within this period are damaged, become diseased, die, are removed or otherwise fail to establish shall be replaced during the next suitable planting season for the approved site.

**Reason:-** In the interests of visual amenity and in the interests of nature conservation.

9. No development hereby permitted shall be commenced (including any site clearance, site stripping, site establishment, formation of new access, installation of any drainage infrastructure or groundworks) until a LEMP (Landscape and Ecological Management Plan), including a Woodland Management Plan for the approved site in accordance with details in paragraph 4.1.19 of the Ecological Appraisal (NLG Ecology Ltd, 2020). (as identified in the red and blue areas on plan refs. 411179 10 P4 Proposed Location) has been submitted to and approved in writing by the Local Planning Authority, giving details of the proposed creation, maintenance, management and development, including timescales and delivery mechanisms for all landscaping / wildlife habitats and associated structures / features within the various public open spaces, ecological areas and structural landscape buffer strips. This shall include full and accurate locations of existing and any proposed new habitats; technical specifications, timescales and phasing for the creation of any new habitats; 5-year establishment and aftercare management prescriptions for any newly created habitats and a minimum 30-year maintenance and management operations for all habitats throughout the site to be monitored and reviewed every 5 years for the site. Following approval of such a management plan, the scheme shall be fully implemented in accordance with the details and timescales so approved. Any trees or plants which within a period as specified by the Landscape and Ecological Management Plan, die, are removed, or become seriously damaged or diseased within the approved site shall be replaced in the next planting season with others of a similar size and species.

**Reason:-** In the interests of visual amenity and in the interests of nature conservation.

10. No development hereby permitted shall be commenced (including any site clearance, site stripping, site establishment, formation of new access, installation of any drainage infrastructure or groundworks) until a CEMP (Construction Environmental Management Plan) has been submitted to and approved in writing by the Local Planning Authority. This should address measures proposed in the Extended Phase 1 Habitat Survey Report and Bat Survey Report by NLG Ecology Ltd (April 2020) and must include the following details:

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

The CEMP shall be implemented and adhered to throughout the construction period strictly in accordance with the approved details.

**Reason:-** In the interests of protected species and habitats during construction during the construction phase of the development.

11. Prior to any works taking place above damp proof course level in respect of any dwelling hereby permitted, details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The design and location of lighting shall not impact on foraging or commuting bats and shall minimise disturbance to other wildlife avoiding retained and enhanced habitat areas. The scheme shall be implemented in accordance with the approved details and timescales as specified.

**Reason:-** In the interests of nature conservation.

### Contamination

12. No of development hereby permitted shall be commenced until such time as a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, property (existing or proposed including buildings, crops, livestock, pets, woodland, service lines, pipes and buildings), adjoining land and ground and surface waters for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme must include:

- a) A site investigation scheme, based on the information already provided to support a detailed assessment of risks to all receptors that may be affected, including those off site,
- b) The results of the site investigation and the detailed risk assessment referred to in (a) and, based on these, an options appraisal and a remediation strategy giving full details of remediation objectives and remediation criteria, and,
- c) A validation plan providing details of the data that will be collected in order to demonstrate that the all works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- d) The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.



All works within a phase of development shall be carried out in accordance with the approved scheme.

13. Prior to bringing the development into first use, a validation report for that phase demonstrating completion of the works as set out in the approved remediation strategy and the effectiveness of the remediation for that phase shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved validation plan to demonstrate that the site remediation criteria for each phase have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the validation plan and for the reporting of such monitoring to the Local Planning Authority for the site.
14. In the event that unexpected contamination is found at any time when carrying out the approved development it must be reported immediately in writing to the Local Planning Authority. In this event, development shall not commence any further until an initial investigation and risk assessment has been completed and agreed in writing by the Local Planning Authority, which shall assess the nature and extent of any contamination. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not commence further until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and shall be subject to the prior written approval of the Local Planning Authority. All works within the development shall be carried out in accordance with the approved scheme.
15. No topsoil / fill material shall be imported to the site for the development until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material shall be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology shall include: the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall be carried out and the validity evidence shall thereafter be submitted to and approved in writing by the Local Planning Authority prior to any importation of such material onsite for the development. All works the development shall be carried out in accordance with the approved scheme.  
**Reasons (17 to 20):-** To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

#### Construction / Demolition

16. No development hereby permitted shall be commenced (including any site clearance, site stripping, site establishment, formation of new access, installation of any drainage infrastructure or groundworks) until a Demolition, Construction and Environmental Method Statement has been submitted to and approved in writing by the Local Planning Authority and shall include the following details:-
  - i. The hours of work, which shall not exceed the following: Construction and associated deliveries to and from the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday;
  - ii. The arrangements for prior notification to the occupiers of potentially affected properties;
  - iii. The responsible person (e.g. Site manager / office) who could be contacted in the event of complaint;

- iv. A scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The approved dust suppression measures shall be maintained in a fully functional condition for the duration of the construction phase;
- v. A scheme for recycling / disposal of waste resulting from the construction works;
- vi. A site compound with associated temporary buildings;
- vii. The parking of vehicles of site operatives and visitors;
- viii. The loading and unloading of plant and materials;
- ix. The storage of plant and materials to be used in constructing the development;
- x. Routing of vehicles to and from the site and arrangements for turning vehicles;
- xi. Proposed temporary traffic restrictions;
- xii. Pedestrian and cyclist protection;
- xiii. Wheel wash facilities;
- xiv. Road sweepers; and,
- xv. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

All works within the development shall be carried out in accordance with the approved details before any other operations are commenced. Once implemented the facilities shall be retained free from any impediment to their designated use throughout the construction period.

**Reason:-** To protect the amenities of the area and in the interests of highway safety.

17. All piling activities undertaken during construction of the development hereby permitted must be carried out under constant vibration monitoring using a suitably calibrated Seismograph. During such monitoring, should vibration levels exceed 1.0 mms-1 at the nearest residential property, at any property in the vicinity identified by the Local Planning Authority or at a location within the site equivalent to the distance from the piling operation to the nearest residential property, the following action level criteria for vibration shall be immediately implemented:
  - First Action Level: Vibration levels with a peak component particle velocity of 1.0 mms-1 to 2.0 mms-1 (at nearby premises).
  - Second Action Level: Vibration levels with a peak component particle velocity of 2.0 mms-1 and above (at nearby premises).

The First Action Level, if exceeded, shall trigger further consideration (by / on behalf of the developer) of what activities are causing the exceedance. Where an exceedance is caused by individual driven piling activities, no more than 10 piles per piling phase shall exceed the first action level. All exceedances shall be reported to the Environmental Health Department (acting for the Local Planning Authority) with a brief description including the time and causation. Where the piling operations on a phase exceed the Second Action Level then the piling operations at this location must cease. Piling operations may commence at a location further from the sensitive receptors providing this would not lead to an additional exceedance of the Second Action Level. The Environmental Health Department of High Peak Borough Council must be informed immediately of an exceedance of the Second Action Level by the piling operations.

**Reason:-** To safeguard the amenity of local residents and that of the surrounding area from noise disturbance

#### Drainage / Flood Risk

18. No development hereby permitted 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

- II. 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;
- III. 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,
- IV. 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 shall be carried out in accordance with the approved scheme prior to any dwelling brought into first use and shall be maintained for those purposes at all times thereafter

**Reason:-** To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options.

19. Foul and surface water shall be drained on separate systems.

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

### Highways

20. No development hereby permitted shall be commenced until a detailed design for the proposed 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 Local Planning Authority. Following approval, the scheme shall be fully implemented in accordance with the details and timescales so approved maintained for those purposes at all times thereafter.

**Reason:-** In the interests of highway safety.

21. No development hereby permitted shall be commenced until a detailed design, and revised layout, showing the proposed shared driveway layout, including intervisible passing opportunities and a turning facility suitable for use by the largest vehicles likely to frequently visit the site has been submitted to and approved in writing by Local Planning Authority. Following approval, the scheme shall be fully implemented in accordance with the details so approved prior to first occupation of the development and maintained for those purposes at all times. The sightlines shall be maintained throughout the life of the development clear of any object greater than 1.0m in height (0.6m in the case of vegetation) relative to adjoining shared driveway channel level.

**Reason:-** In the interests of highway safety.

22. No dwelling shall be first occupied until the parking / loading and unloading / manoeuvring of residents/ visitors / service and delivery vehicles to suitably serve that dwelling are suitably laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use in accordance with the revised layout as approved by Condition 25. The facilities shall be retained throughout the life of the development free from any impediment to their designated use at all times.

**Reason:-** In the interests of highway safety.

23. Prior to the commencement of development, including the construction compound being brought into first use, the existing vehicular access to Macclesfield Road adjacent to Brewood shall be permanently closed with a physical barrier in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall be

carried out in accordance with the approved details / timescales and maintained for those purposes at all times thereafter.

**Reason:-** In the interests of highway safety.

24. There shall be no gates or other barriers within 15.0m of the nearside adopted highway boundary from Macclesfield Road and any gates shall open inwards only.

**Reason:-** In the interests of highway safety.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and / or re-enacting that Order) the garages hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

**Reason:-** In the interests of highway safety.

26. No development hereby permitted shall be commenced until details of secure cycle parking facilities for the occupants of and visitors to the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the first occupation of the associated dwelling and shall thereafter be retained for use at all times.

**Reason:-** In the interests of highway safety.

27. No development hereby permitted shall be commenced until details of the proposed arrangements for the future management and maintenance of the proposed streets within the development have been submitted to and approved by the Local Planning Authority. The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under section 38 of the Highways Act 1980 or a private Management and Maintenance Company has been established.

**Reason:-** In the interests of highway safety.

### ***Appeal B (Disagreed Conditions)***

*Council:*

4. Prior to any works taking place above damp proof course level, details of the design, external appearance and decorative finish of all fences, gates, walls, and other means of enclosure within the development shall be submitted to and approved in writing by the Local Planning Authority. The enclosure scheme shall demonstrate site-wide hedgehog connectivity measures. Development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling to which they relate to. Any other enclosure shall be carried out in accordance with the approved details prior to the proposed development being brought into first use. The approved scheme shall be maintained for those purposes at all times thereafter.

**Reason:-** In the interests of the character and appearance of the area, provision of private amenity space, designing out crime and nature conservation.

5. Prior to any works taking place above damp proof course level, a scheme for the repair, future maintenance and management of all dry stone walls shown to be retained as per Condition 04 above within the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details

prior to the proposed development being brought into first use. The approved scheme shall be maintained for those purposes at all times thereafter.

**Reason:-** In the interests of the character and appearance of the area, provision of private amenity space and Designing out Crime.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification):-
- a) No development as specified in Schedule 2, Part 1, Class(es) A, AA, B, C, D, E and G other than those expressly authorised by this permission, shall be carried out on any plot without express planning permission first being obtained from the Local Planning Authority.
  - b) No development as specified in Schedule 2, Part 1, Class F other than those expressly authorised by this permission, shall be carried out on any plot without express planning permission first being obtained from the Local Planning Authority, and,
  - c) No development as specified in Schedule 2, Part 2 Class A other than those expressly authorised by this permission, shall be carried out on any plot without express planning permission first being obtained from the Local Planning Authority.

**Reason:-** To preserve the character and appearance of the conservation area, in the interests of the character and appearance of the area and maintaining good amenity standards.

**The Council considers the submission of the revised AMS as necessary given the unknown impacts of the layout in relation to a wider access driveway and turning head also.**

11. No development hereby approved shall be commence except in until a detailed Arboricultural Method Statement to include a scheme for the retention and protection of trees and hedges on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved Statement and protection scheme for the site, and in particular:
- a) No trees or hedgerows shall be cut down, uprooted or destroyed, cut back in any way or removed without the written approval of the Local Planning Authority;
  - b) If any tree, shrub or hedge plant is removed without such approval, or dies or becomes severely damaged or diseased within 5 years from completion of the development hereby permitted, it shall be replaced by another tree, shrub or hedge plant of similar size and species, planted at such time as may be specified in writing by the Local Planning Authority;
  - c) No operations shall commence on site (including soil moving, temporary access construction and/or widening or any operation involving the use of motorised vehicles or construction machinery) unless the protection works required by the approved protection scheme are in place;
  - d) No excavation for services, no storage of materials or machinery, no parking of vehicles, no deposit or excavation of soil or rubble, no lighting of fires and no disposal of liquids shall take place on the site within any area designated as being fenced off or otherwise protected in the approved protection scheme, and,
  - e) All protective fencing erected in accordance with the approved scheme shall be retained intact for the full duration of the construction of the development for the site hereby permitted and shall not be moved or repositioned, without the prior written approval of the Local Planning Authority.

### **Appellant**

**The appellant considers that conditions 4 and 5 above can be merged as follows:**

Prior to any works taking place above damp proof course level in respect of any dwelling hereby permitted, an enclosure scheme shall be submitted to and approved in writing by the Local Planning Authority. The enclosure scheme shall include:

- Details of the design, external appearance and decorative finish of all fences, gates, walls, and other means of enclosure within the development;

- the repair (if any) and future maintenance of all dry stone walls proposed to be retained;
- site-wide hedgehog connectivity measures; and
- a timetable for the provision of boundary treatments.

Development shall be carried out in accordance with the approved scheme.

**Reason:-** In the interests of the character and appearance of the area, provision of private amenity space, designing out crime and nature conservation.

**The appellants considers that the following wording should be used instead of the LPA's suggested wording for condition 11 above. This is because a tree protection scheme has already been submitted to the Local Planning Authority in connection with the appeal application (CD 2.4e). The scheme can be approved at the point planning permission is granted therefore there is no need to require the submission of further details. Additional requirements can be added to the below wording if deemed necessary by the inspector.**

All tree felling and pruning works shall be carried out in full accordance with the Arboricultural Method Statement & Tree Protection Plan by Thompson Tree Services, dated November 2020 and with the requirements of British Standard 3998: 2010 - Recommendations for Tree Works.

b) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.

c) No fires should be lit within 6m of the furthest extent of the canopy of any tree or tree group to be retained as part of the approved scheme.

d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the Local Planning Authority.

e) No development or other operations shall take place except in complete accordance with the approved protection scheme and Arboricultural Method Statement.

**Reason:-** To protect existing trees and hedgerows and in the interests of the character and appearance of the area.

10. Signed Agreement

Signed on behalf of the appellant: *Ranbir Grewal*

Position: *Director* Date: *15<sup>th</sup> November 2022*

Signed on behalf of High Peak Borough Council: *Richard Lingkin*

Position: *Senior Planning Officer* Date: *15.11.22*

*(Majors e Commercial)*

