

Local Plan Representations

For High Peak Developments Ltd | 23-311

Regulation 16 consultation - Whaley Bridge Neighbourhood Plan



Project: 23-311
Site Address: Whaley Bridge Neighbourhood Plan
Client: High Peak Developments Ltd
Date: 22 June 2023
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- EP1.** Location Plan: Land at Hogs Yard, Buxton Road, Whaley Bridge (South of Tesco Store).
- EP2.** Signed Statement of Common Ground - LPA ref: HPK/2015/0436 & PINS ref: 3149003.
- EP3.** Appeal decision letter - - LPA ref: HPK/2015/0436 & PINS ref: 3149003.
- EP4.** Location Plan: Land at Hogs Yard, Buxton Road, Whaley Bridge (North of Tesco Store).



1. Introduction

- 1.1 Emery Planning is instructed by High Peak Developments Ltd to submit representations to the Regulation 16 consultation on the Whaley Bridge Neighbourhood Plan.
- 1.2 High Peak Developments Ltd is a longstanding developer in High Peak area and have owned land at Hogs Yard to the north of Whaley Bridge Town Centre for a long period of time. They have delivered other parcels in the wider Hogs Yard area for the following over the years:
 - A new Tesco store and filling station.
 - A new B&M Bargains retail store.
- 1.3 High Peak Developments Ltd continue to promote two more land parcels at Hogs Yard for development, and these sites have been put forward to previous local plan reviews and call for sites exercise. One of these sites is located within the built-up area of Whaley Bridge and has the benefit of an extant planning permission for a mixed-use development, and the other site is within the Green Belt although it serves no meaningful Green Belt function as it is wholly enclosed by urban features and the existing built-up area.
- 1.4 Our client's sites have the potential to deliver much-needed housing development in a highly sustainable location and/a new retail store to meet identified needs. The High Peak Retail Leisure & Town Centre Study 2022 (Nexus Planning) identifies a need for comparison and convenience retail floorspace in Whaley Bridge, and it also identifies a need for a new food store in a sustainable location. It is noted that the existing Tesco store at Hogs Yard is significantly over-trading and there is a leakage of expenditure to other parts of the region beyond High Peak. Our client's land is at the edge of Whaley Bridge Town Centre and benefits from excellent footpath and cycleway connectivity.
- 1.5 Our client's Green Belt site also has the potential to provide new leisure and tourism development such as a bowling alley or a hotel e.g. a Travel Lodge.
- 1.6 High Peak Developments Ltd would welcome engagement with Whaley Bridge Town Council and the local community on the delivery of the land.



2. Planning policy context

The legislative framework

2.1 The basic conditions are set out in [paragraph 8\(2\) of Schedule 4B to the Town and Country Planning Act 1990](#) as applied to neighbourhood plans by Section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:

- a) having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
- b) having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
- c) having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
- d) the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
- e) the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
- f) the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
- g) prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

National Planning Policy and Guidance

National Planning Policy Framework

2.2 The revised National Planning Policy Framework (the Framework) was published in July 2021. It sets out the Government's planning policies for England and how these are expected to be applied. The purpose of the planning system is to contribute to the achievement of sustainable development. The Framework, taken as a whole, constitutes the Government's view of what sustainable development in England means in practice for the planning system.

2.3 Paragraph 13 sets out that the application of the presumption in favour of sustainable development has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should



support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.

- 2.4 Paragraph 29 states that neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies.

National Planning Practice Guidance

- 2.5 The National Planning Practice Guidance (PPG), launched in 2014, replaced several practice guidance documents that were deleted when the PPG was published. Neighbourhood planning is addressed in chapter 41 of the PPG.

The development plan

- 2.6 Neighbourhood Plans must be in general conformity with the strategic policies of the wider local area, which in this instance are set out within the High Peak Local Plan (adopted April 2016). The council's website states that it has conducted a review of the adopted Local Plan and concluded that three policies are out of date when considered against the latest national policy and evidence, these are Policy S3 (Strategic Housing Development), Policy S4 (Maintaining and Enhancing an Economic Base) and Policy H4 (Affordable Housing).
- 2.7 Early engagement consultation concluded in March 2023 on the strategy for the new High Peak Local Plan. The consultation document set out a number of questions regarding how the strategy for High Peak should be planned over the period to 2041.

High Peak Local Plan

- 2.8 The following policies are relevant to our representations.

Policy S 3: Strategic Housing Development

- 2.9 Although it is noted that the council considered limited weight should be attached to Policy S 3, the policy sets the context for housing land supply and distribution across the borough. It requires "at least" 7,000 dwellings to be delivered in the High Peak over the plan period 2011 to 2031, at an average of 350 homes per annum. The plan identifies a need to accommodate up to 3,549 additional dwellings on new sites.



2.10 Table 2 of the Local Plan explains how the 3,549 dwelling figure has been calculated. It is essentially the 7,000 figure plus 80 dwellings as a shortfall in housing provision since 2006 minus:

- 445 dwellings which were completed between 2011 and 2014;
- 2,976 dwellings which were commitments at December 2014; and
- 110 dwellings which are expected to be delivered within the Peak District National Park over the period 2011 to 2031.

2.11 Table 2 of the Local Plan refers to appendix 4 of the Local Plan which lists the “current commitments”. This lists 47 dwellings which had planning permission in Whaley Bridge and 6 dwellings which had planning permission in Furness Vale.

2.12 Policy S 3 requires that of the 3,549 dwellings on new sites 1,065-1,171 (i.e. 30-33%) are distributed to the Central Area, which includes Whaley Bridge. The policy explains that this will be met by:

- 100 dwellings on small sites within Chapel Neighbourhood Plan;
- 100 dwellings on small sites within New Mills;
- 100 dwellings on small sites within Whaley Bridge;
- 100 dwellings on small sites in other villages in the Central Area; and
- 623-729 dwellings on allocations (excluding Chapel Parish).

2.13 The relevance of this is that the 100 dwellings on small sites within Whaley Bridge and 100 dwellings on small sites in other villages in the Central Area (i.e. including Furness Vale) is in addition to any completions that had taken place between 2011 and 2014 and in addition to those commitments that are included within appendix 4 of the Local Plan.

2.14 Policy S 3 then states:

“The release of land/sites for new housing will be managed so that it delivers the broad amount and distribution of housing as set out above. The adequacy of housing delivery (in terms of a five year supply of housing and in meeting planned housing delivery targets over the full plan period) will be assessed regularly in accordance with a Housing Implementation Strategy and through annual reviews of the Strategic Housing Land Availability Assessment. Progress will be reported through the council’s Authority Monitoring Report.”

2.15 As the housing requirement is now more than 5 years old, the council is applying the Local Housing Need (LHN) annual requirement of 260 dwellings per annum, rather than the Local Plan requirement of 350



dwellings per annum. We understand that it is on this basis only that the local authority has determined that Policy S3 is out of date.

- 2.16 The latest Five Year Housing Land Supply Statement confirms that the Council can demonstrate a deliverable five year housing land supply (6.28 years at 1st April 2022) calculated on the basis of LHN (if the local plan requirement was applied the supply would be 4.67 years).
- 2.17 The latest Annual Monitoring Report (AMR) (April 2022) confirms that 2,754 net dwellings had been completed in High Peak between 2011 and 2022 which falls well below the 3,850 dwellings that the Local Plan envisaged would be delivered at this stage.
- 2.18 Part of the reason for this is because the allocated sites in the High Peak Local Plan have not delivered as anticipated. For example, out of the 10 allocations in the Central Area, only 4 have planning permission. Planning applications have not even been made on 5 of the allocations and there is only 8 years left of the High Peak Local Plan period. Dwellings have been delivered on only one of the three allocated sites within the Whaley Bridge NP area in the first 10 years of the plan period (see table 1 below).
- 2.19 Finally, within the section “Neighbourhood Plans”, policy S 3 states:

“In order to assist in meeting the full objectively assessed housing need of the plan area Neighbourhood Plans should maximise opportunities for housing growth in sustainable locations and, where appropriate, make allocations in their plan to provide at least the same amount of housing land identified in the Local Plan for the relevant parish or Neighbourhood Area.” (emphasis added)

- 2.20 Table 12 of the Local Plan sets out the “Implementation of Local Plan policies”. In terms of policy S 3, it states that the principal outcomes are:

“To meet housing requirements across the plan areas as far as possible within the limits of local landscape, infrastructure and environmental constraints

To provide a range of market and affordable housing”

- 2.21 The implementation mechanism for these outcomes are:

“Allocation of sites in Local Plan – HPBC

Allocation of sites in Neighbourhood Plans

Determination of planning applications” (emphasis added)

- 2.22 Within this context, the Whaley Bridge NP should make residential allocations.



Policy S6: Central Sub-area Strategy

2.23 Policy S 6 provides the strategy for the Central Sub-Area. It states that the housing needs of the community will be provided for by (amongst other things):

- 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;
- 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; and
- Ensuring that residential development avoids 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.

2.24 As above, table 12 of the Local Plan sets out the “Implementation of Local Plan policies”. In terms of policy S 6, it states that the principal outcomes are:

“Enable the sustainable development of the Central Area

Support the delivery of complementary regeneration projects and infrastructure investment

Preserve key sites of environmental, heritage or recreational value”

2.25 The implementation mechanism for these outcomes are:

Allocation of sites in Local Plan – HPBC

Allocation of sites in Neighbourhood Plans

Determination of planning applications

Working with partners to deliver regeneration and infrastructure projects”(emphasis added)

2.26 Again, within this context, the Whaley Bridge NP should make residential allocations.

Policy H 1 – Location of Housing Development

2.27 Policy H 1: “*Location of Housing Development*” explains that the Council will ensure provision is made for housing through several measures, including:

“Supporting the development of specific sites through new site allocations in the Local Plan or a Neighbourhood Plan;



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;

Supporting housing development on unallocated sites within defined built up area boundaries of the towns and larger villages”

2.28 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.

2.29 This is important because the Whaley Bridge NP should not restrict development that would be in accordance with the High Peak Local Plan, including Policy H1.

Policy H 2: Housing Allocations

2.30 Policy H2 of the High Peak Local Plan identifies housing allocations to meet the housing target outlined in Policy S3. As above, Policy S3 states that 623-729 dwellings will be met on allocations in the Central Area (excluding Chapel Parish). The table in policy H2 of the Local Plan identifies the following allocations in the Central Area and we have added the latest position on these sites as set out in the latest AMR:

Table 1: Delivery of housing allocations in the Central Area

Location	No. of dwellings	Phase	Position in the AMR (at 2022)
Derby Road, New Mills (C3)	107	2021-26	Full planning permission for 96 dwellings – Wainhomes. Construction on the site has now started.



Ollersett Lane/Pingot Road/Laneside Road New Mills (C5, C6 ,C17,C18)	239	2021-26 / 2026-31	No planning application submitted
Woodside Street New Mills (C7)	25	2016-21	No planning application submitted
South of Macclesfield Road (C9)	0 (83)	2016-21	107 dwellings under construction by Barratt Homes – already included in commitments, which is why 0 contribute to the 614 total.
Buxton Road, Chinley (C13)	13	2016-21	Full planning permission for 25 affordable homes – Johnnie Johnson
Britannia Mill (C15)	50	2016-21	Outline planning application for 110 dwellings pending determination
Furness Vale A6 (C16)	39	2016-21	Full planning permission granted – Guinness Partnership
Furness Vale Business Park (C19)	26	2026-31	No planning application submitted
New Mills (C20)	15	2021-26	No planning application submitted
Birch Vale Industrial Estate (C21)	100	2021-26	No planning application submitted
Total provision on allocated sites	614		

2.31 This shows that whilst Policy S3 stated that 623-729 dwellings are to be allocated in the Central Area, it is of note that the High Peak Local Plan only allocates 614 dwellings in the Central Area. The 614 figure will not be met in the High Peak plan period. Only 4 of the 10 allocations have planning permission and an application has not even been made on 5 of the allocations. Therefore, the Whaley Bridge NP should make residential allocations to assist meeting the housing requirement for the Central Area.

Policy H 4: Affordable Housing

2.32 Policy H4 of the High Peak Local Plan states that the Council will seek to maximise the delivery of affordable housing across the plan area by working in partnership with the Homes and Community Agency, Registered



Providers, Developers and Local Communities. Although the council has stated that Policy H4 is out of date, we assume that this relates to affordable housing thresholds rather than the overall need to provide affordable housing.

2.33 Paragraph 5.149 of the Local Plan states:

“Affordable Housing is a key issue in the Local Plan area due in part to the high cost of houses, and the relative low incomes of resident based employment. Both the Housing Needs Survey and the Housing Market Assessment suggest that there is a significant need to increase the overall level of affordable housing provision. The Housing Needs Survey indicated a need of between 443 and 591 per annum for new affordable dwellings to meet backlog and emerging needs. The 2014 SHMA indicates that there is a net need of 526 per annum for affordable housing across the Borough.”

2.34 Despite this, the latest AMR states that there have been only 432 affordable homes completed in High Peak over the last 6 years (2016-22).

2.35 The council’s housing officer confirmed in July 2022 that:

- There are 1,240 households on the Council’s Housing Register (an increase from 1,158 in February 2022).
- 219 applicants expressed Whaley Bridge as their first second or third choice (an increase from 187 in February 2022).
- 64 applicants expressed Whaley Bridge as their first choice (an increase from 55 in February 2022).
- 57 applicants resided in Whaley Bridge (an increase from 51 in February 2022).

2.36 While we are not in receipt of a full recent update of these figures, the housing officer’s comments on a recent planning application (reference HPK/2023/0061) indicate that since July 2022 and in spite of the recent delivery of 13 affordable homes in Bridgemont and 10 at Linglongs, the affordable housing need (based on Homes Options applicants) in the Parish of Whaley Bridge has increased to 66.

2.37 There is therefore a clear and growing need for additional affordable housing in High Peak and specifically in Whaley Bridge.

Neighbourhood Planning

2.38 Paragraphs 1.20 to 1.22 of the Local Plan are relevant. They state:

120 Neighbourhood planning enables members of a local community to take forward planning proposals for the area in which they live. Neighbourhood Plans are voluntary



local planning policy documents that are written and developed by a community, usually led by a town or parish council. In areas without a town or parish council, a Neighbourhood Forum can be established to prepare a plan.

1.21 Once a neighbourhood plan is adopted, it will form part of the Development Plan for High Peak. This means that it will become a major consideration during the determination of planning applications.

1.22 Neighbourhood plans prepared in High Peak should be compliant with the strategic policies of the Local Plan and the National Planning Policy Framework. Strategic policies are those which are essential to delivering the overall planning and development strategy for the High Peak, such as those that set out the number of homes that should be built. Neighbourhood Plans cannot therefore plan for less development than is required by the Local Plan. However, they may be used to identify sites for development or protection, or provide guidance on matters such as design”



3. Response to Policies

Plan period

3.1 The Submission Version of the Neighbourhood Plan covers the period 2022 – 2032. However, the High Peak Local Plan only covers the period up to 2031. The Neighbourhood Plan should either align with the Local Plan by setting out its strategy to 2031 or assess and factor in Whaley Bridge’s development needs beyond those set by the current Local Plan (i.e., post-2031).

2.1 Strategy for Sustainable Growth

3.2 Section 2.1 of the Draft Neighbourhood Plan ‘*Strategy for Sustainable Growth*’ states that the Plan does not undertake housing site allocations, instead leaving this to the Local Plan. We object to this approach. We consider that the Neighbourhood Plan should make housing allocations for the following reasons:

- As set out in Table 1 above, the allocations in the Local Plan are failing to deliver and therefore the Neighbourhood Plan should allocate sites to ensure housing delivery in the central area.
- To ensure that affordable housing needs are met. There is a significant affordable housing need in High Peak and in Whaley Bridge specifically. In the absence of the delivery of housing allocations, this need will continue to grow.
- Fourthly, Policy S6 clearly expects residential allocations to be made in Neighbourhood Plans to assist in meeting the overall housing requirement.

3.3 Whilst the local planning authority currently relies on the LHN figure of 260dpa, the High Peak Local Plan is in the early stages of review. The High Peak Housing and Economic Land Needs Assessment (September 2022) (HEHLNA) which forms part of the evidence base for the Local Plan review, considers the overall housing need and the need for different types of housing and employment land requirements up to 2041. It acknowledges that the LNA figure of 260 dpa is only the starting point in this assessment. Paragraph 9.14 of the HELNA reflects the guidance provided within the PPG and states it is the intention of the government that the local housing need figure is minimum figure which does not attempt to predict future growth, the impact of changing Government policies, changing economic circumstances or other demographic behaviours.

3.4 The HELNA states the LHN figure of 260dpa is an appropriate figure moving forward if considering the baseline economic growth forecasts. However, if the level of housing growth is to align with the planned level of economic growth then a higher housing requirement will be needed. Paragraph 14.18 of the HELNA states:



If, however, HPBC decides to pursue a higher level of economic growth and allocates sufficient employment land to support this, in line with the Policy On Scenario for example, then it should also consider increasing the housing target accordingly. The standard methodology is appropriate for PDNPA in so far as it can be used, with other methodologies, to determine need arising within the National Park.

- 3.5 The HELNA also confirms that the affordable housing need for the borough cannot be met by the standard method. It is therefore possibly and likely that the Borough Council will adopt a housing requirement higher than LHN in order to assist the delivery of much needed affordable housing and in the interests of economic growth.
- 3.6 Therefore, the Neighbourhood Plan should seek to identify sites for development in order to maximise growth, and contribute towards meeting the housing needs of High Peak.

2.4 Aims

- 3.7 Section 2.4 of the Draft Neighbourhood Plan sets out the aims of the Neighbourhood Plan. Namely, it states that the aims are to:
- Meet the diverse needs and aspirations of all of the community in terms of housing, local facilities and economic opportunity; and
 - To attract investment, visitors, employment and sustainable development, to meet the needs of local residents and businesses.
- 3.8 We support these aspirations and wish to emphasise that in order to meet these aims a positive approach to development proposals is required. This is particularly the case given as we have explained above that the general and affordable housing needs of the Central Area, including Whaley Bridge are not being met by the allocations set out in the Local Plan.

WB-G1 Town Centre and Economy

- 3.9 Policy WB-G1 (part 1) of the Submission Version of the Neighbourhood Plan states that retail, restaurants, cafes, cultural uses, visitor facilities or recreational uses and other uses open to the public will be supported within the defined town centre, including the change of use from residential.
- 3.10 The High Peak Retail Leisure & Town Centre Study 2022 (Nexus Planning), published as part of the evidence base for the emerging local plan, identifies a need for comparison and convenience retail floorspace in Whaley Bridge, and it also identifies a need for a new food store in a sustainable location. It is noted that the existing Tesco store at Hoys Yard is significantly over-trading and there is a leakage of expenditure to other parts of the region beyond High Peak. Our client's land (i.e. both sites at **EP1** and **EP4**) is at the edge



of Whaley Bridge Town Centre and benefits from excellent footpath and cycleway connectivity, and it has the potential to help meet identified retail needs in a sustainable manner.

- 3.11 As well as the potential to accommodate housing development, our client's land at **EP1** (Hogs Yard, Buxton Road, Whaley Bridge (South of Tesco Store)) could accommodate identified retail needs in a highly sustainable manner alongside the existing retail units that already exist and have been found to be significant over-trading.
- 3.12 Our client's site at **EP4** (Hogs Yard, Buxton Road, Whaley Bridge (North of Tesco Store)) has been marketed for well over 10 years for employment purposes (i.e. B-type uses) by High Peak Developments Ltd and there has been no interest expressed. This site is also well located to accommodate a new retail store and it also has the potential to accommodate a leisure and/or tourism use and this could include a new hotel (e.g. Travel Lodge) or a new bowling alley for instance. Whaley Bridge is an excellent base for the Peak District National Park and has a range of attractions in its own right including Goyt Valley and Bugsworth Basin and there are excellent walking and cycling trails in the surrounding countryside. A new hotel and/or leisure development has the potential to support the visitor economy and make an important contribution to supporting the role of Whaley Bridge in the overall settlement hierarchy for the local plan.
- 3.13 The defined town centre boundary is very tightly drawn and there are very few development opportunities with this area. Our client's sites have potential to meet identified retail needs in a highly sustainable manner and could be allocated as such through the neighbourhood plan with Policy WB-G1 amended to reflect this.
- 3.14 Policy WB-G1 (part 2) of the Submission Version of the Neighbourhood Plan states that cultural uses, visitor facilities or recreational uses will be supported in locations outside of the town centre only where it can be demonstrated that they cannot be accommodated within the town centre. We object to this policy. The need for a sequential test for visitor and recreational facilities is overly restrictive and does not conform with the Framework, which states at paragraph 84 that planning policies should *enable*:
- h) The sustainable growth and expansion of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - i) The development and diversification of agricultural and other land-based rural businesses; and
 - j) Sustainable tourism and leisure development which respect the character of the countryside.
- 3.15 The development of visitor and recreational facilities in rural areas is not restricted by the Framework and therefore the requirement for a sequential test should be removed from the Neighbourhood Plan.



WB-G2 Community Facilities

- 3.16 Policy WB-G2 (part 2) of the Submission Version Neighbourhood Plan states that community facilities will be supported in locations outside of the town centre only where it can be demonstrated that they cannot be accommodated within the town centre.
- 3.17 As set out above in relation to Policy WB-G1, we consider that this requirement is overly restrictive and should be removed from the Plan. It does not accord with the Framework for the reasons set out above.

WB-G3 Residential Development

- 3.18 Policy WB-G3 (part 1) states that:

“Residential development outside of the Peak District National Park will be supported for the following locations, subject to meeting the requirements of other policies in this Neighbourhood Plan:

- k) Within the defined Whaley Bridge settlement boundary;
- l) Within the defined town centre, providing street-frontage ground floor units are in uses open to the public;
- m) Brownfield sites;
- n) Infill sites in the form of gaps in existing substantially built-up frontages.”

- 3.19 We object to this policy as it is more restrictive than Policy H1 of the Local Plan, which allows for residential development on the edge of settlements if the criteria within the policy are met – please see the planning policy section above. Policy WB-G3 should be amended to state that residential development outside of settlement boundaries will be supported in line with Policy H1 of the Local Plan.
- 3.20 Policy WB-G3 (part 3) states that self-build housing and community-led housing are encouraged. We support the initiative of community-led housing however we note that this needs to actively encourage meeting local housing needs.

WB-E1 Sustainable Design

- 3.21 Policy WB-E1 (part 3) states that development should enhance the architectural diversity of the area. We object to the wording of this policy and consider that it should be amended to state:

“Development should seek to enhance architectural diversity” [our addition]

- 3.22 The requirement to enhance in every case is excessive and does not allow for consideration of site-specific circumstances.



3.23 Policy WB-E1 (part 4) states that schemes should incorporate high quality and well-functioning green infrastructure and public realm as an integral part of the design and layout. We object to the wording of this policy and consider that it should be amended to state:

“Schemes should incorporate high quality and well-functioning green infrastructure and public realm as an integral part of the design and layout where appropriate and necessary” [our addition]

3.24 The requirement to incorporate green infrastructure may not be appropriate for smaller scale schemes and therefore the policy should allow for some flexibility.

3.25 Policy WB-E1 (part 9) states that development must include positive design features to reduce carbon impact. We consider that this policy is overly vague as it is unclear how this would be quantified. Further clarification is required.

WB-E3 Natural Environment

3.26 Policy WB-E3 part 1, states that development must preserve or enhance and not harm the rural and open landscape character of the area, including the Peak District National Park and its setting. The terminology here is not clear. ‘Preserve’ and ‘not harm’ have the same meaning in planning terms. Furthermore, ‘preserve or enhance’ are terms that are associated with an assessment of heritage assets in planning terms. The Framework and Policy EQ2 of the Local Plan use the words ‘protect and enhance’ in respect of the National Park and recognised landscape character areas. The Framework is clear at paragraph 175 that plans should distinguish between the hierarchy of international, national and locally designated sites and there should be a distinction between land in the National Park (which is a valued landscape) and other areas of the open countryside. The policy needs additional clarification to distinguish between the landscape hierarchy.

WB-T2 Active Travel

3.27 Policy WB-T2 1 states that that development must not encroach onto the area’s footpaths, cycleways or green and blue routes. We object to the wording of this policy and consider that it should be amended to state:

“Development ~~must not~~ **should seek to avoid** encroaching onto the area’s footpaths, cycleways or green and blue routes, including the Shallcross Incline, The Linear Park and Whaley Bridge incline, unless adequate mitigation or alternate routes are provided” [our addition]



3.28 Policy WB-T2 2 states that development adjacent to cycle routes or footpaths, must have no adverse impact on their safety, amenity or accessibility. We object to the wording of this policy and consider that it should be amended to state:

“Development adjacent to footpaths, cycleways or green routes must have no adverse impact on their safety, amenity or accessibility **unless adequate alternative routes or mitigation is provided.**” [our addition]

3.29 The policy as drafted is overly restrictive and does not allow for the flexibility required on a case-by-case basis.



4. Land at Hogs Yard, Buxton Road

4.1 Our client has two sites that are available, suitable and achievable for residential development:

- ‘Land at Hogs Yard, Buxton Road, Whaley Bridge (South of Tesco Store)’ – 0.7ha. See **EP1**.
- ‘Land at Hogs Yard, Buxton Road, Whaley Bridge (North of Tesco Store)’ – 0.4ha. See **EP4**.

4.2 Our client’s sites are located within Whaley Bridge, which is one of the principal settlements of the Central Area of the Borough. These two sites are very well related to the existing infrastructure at the existing retail uses at Hogs Yard (Tesco and B & M Bargains) and the wider Bingswood Industrial Area and Whaley Bridge Town Centre e.g. road infrastructure and pedestrian and cycle connections.

4.3 The two sites fall within the built-up area of Whaley Bridge. The parcels form part of a wider area known as Hogs Yard, which has been partly developed over the years for the following:

- A new Tesco store and filling station.
- A new B&M Bargains retail store.

4.4 Our client is promoting the residual land parcels within the Hogs Yard area for development.

4.5 The Peak Forest Canal and Buxton Road (A5004) are to the west and the Bingswood Industrial Estate beyond the River Goyt to the east. The A6 bypass is to the north of Hogs Yard and Whaley Bridge Town Centre is to the south.

4.6 The land is located on the main bus route into Whaley Bridge along the A5004. There is a bus stop, provided as part of the Tesco site, adjacent to the site. There is also direct access onto the canal towpath and the Whaley Bridge Train Station is located circa. 400m (5mins walk) to the south.

4.7 Part of our client’s land at Hogs Yard has been allocated for employment and mixed-use development in the development plan since the High Peak Local Plan adopted in 1998 as part of a Primary Employment Zone. However, it has not come forward for the purposes set out through the development plan over the subsequent 25 years. As set out below, there is extant planning permission further to the grant of consent around 10 years ago for food and drink/leisure and/or office purposes. The land has become increasingly overgrown and unkempt and it is highly sustainably located in terms of access to key services and public transport options. There is a need to identify a sustainable and viable use for the land going forwards.

Land at Hogs Yard, Buxton Road, Whaley Bridge (South of Tesco Store)

4.8 The site location plan is at **EP1**.



Planning history

- 4.9 The site benefits from extant planning permission for a mixed-use development comprising offices (B1 Use Class), food and drink (A3 Use Class) and leisure and assembly (D2 Use Class) HPK/2010/0206 & HPK/2013/0268. The extant scheme is for 2 no. blocks comprising 797sqm commercial floorspace in one building and 1258sqm in the other and includes a car park area for 53 no. car parking spaces.
- 4.10 The Council has confirmed that HPK/2010/0206 & HPK/2013/0268 was lawfully implemented and remains extant. See the signed Statement of Common Ground for planning application HPK/2015/0436, which notes that a lawful start was made to HPK/2013/0268. See **EP2** for a copy of the signed Statement of Common Ground.
- 4.11 Our client also progressed planning application HPK/2015/0436 in 2015 for a residential development comprising 23 no. apartments, which was refused planning permission by the Council. At a subsequent appeal, the Council resisted the scheme on the basis of design and residential amenity only (PINS ref: 3149003). All other matters were assessed and found to be acceptable by the Council and the Planning Inspectorate for residential development. See **EP3** for a copy of the appeal decision letter.
- 4.12 The Planning Inspector and the Council agreed that the principle of residential development was acceptable on the site. The agreed Statement of Common Ground for this appeal confirmed that the local planning authority has no objections to a residential scheme on the site subject to the design and layout being appropriate.

Site constraints

- 4.13 The signed Statement of Common Ground for planning application HPK/2015/0436 at **EP2** notes that residential development on the site is acceptable in terms of the following:
- The principle of development.
 - Landscape impacts.
 - Ecology and wildlife.
 - Trees.
 - Highways and accessibility.
 - Drainage and flood risk.
 - Air quality.
 - Contaminated land.



4.14 The only matters contested by the Council at the appeal were about the design, scale and siting of the scheme put before the local planning authority. This could be resolved through an amended design concept for the site.

Proposed allocation

4.15 As set out above, the principle of residential development has been accepted by the local planning authority on the site. The only reasons why our client's previous scheme for residential development did not succeed at appeal was because of the design concept put forward with all other matters having been agreed.

4.16 Our client would be happy to work with the neighbourhood plan steering group to discuss a more appropriate form of residential development. This may involve an amended design concept for residential apartments or otherwise individual houses. This is a site-specific issue that can be resolved at the development management stage of the planning process.

4.17 The site could accommodate up to 25 no. residential units depending upon the final design concept for the site.

Land at Hogs Yard, Buxton Road, Whaley Bridge (North of Tesco Store)

4.18 See the site location plan at **EP4**.

Green Belt considerations

4.19 Our client's site is enclosed by the A6 Chapel-en-le-Frith bypass to the east, the A5004 to the west and the canal and towpath to the south. Vehicular access is obtained from the A6 and A5004 roundabout with a pedestrian access from Tesco via a pedestrian bridge both over and under the canal. The land is entirely enclosed by physical features on the ground and is a logical end to the settlement of Whaley Bridge.

4.20 We understand that the site was used in connection with the construction of the Chapel-en-le-Frith bypass and roundabout. Whilst the remains of the previous use have largely blended into the landscape in the process of time, evidence of the former hardstanding remains.

4.21 Paragraphs 142 and 143 of the NPPF advise on drawing up or reviewing Green Belt boundaries. Paragraph 143 states that when defining boundaries, local planning authorities should amongst other things:

- ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development;
- not include land which it is unnecessary to keep permanently open;



- satisfy themselves that Green Belt boundaries will not need to be altered at the end of the development plan period;
- define boundaries clearly using physical features that are readily recognisable and likely to be permanent.

4.22 It is completely unnecessary to keep this land permanently open due to the nature of the land and due to the permanent boundaries that enclose it and prevent the built up area from extending further into the Green Belt beyond. It is considered that it does not fulfil any of the objectives or purposes of the Green Belt, as set out in paragraph 138 of the NPPF.

Site constraints

4.23 We consider that site constraints could be satisfactorily addressed at the planning application stage in a similar manner to that on our client's other land parcel at **EP1**. Vehicular access is obtained from the A6 and A5004 roundabout with a pedestrian access from Tesco via a pedestrian bridge both over and under the canal.

Proposed allocation

4.24 The site is capable of accommodating in the order of 10-15 dwellings at 30 dwellings to the hectare or for an apartment block.

Retail and visitor uses

4.25 As noted elsewhere within this Statement, the High Peak Retail Leisure & Town Centre Study 2022 (Nexus Planning) identifies a need for comparison and convenience retail floorspace in Whaley Bridge, and it also identifies a need for a new food store in a sustainable location. It is noted that the existing Tesco store at Hoys Yard is significantly over-trading and there is a leakage of expenditure to other parts of the region beyond High Peak. Our client's land (i.e. both sites at **EP1** and **EP4**) is at the edge of Whaley Bridge Town Centre and benefits from excellent footpath and cycleway connectivity, and it has the potential to help meet identified retail needs in a sustainable manner.

4.26 As well as the potential to accommodate housing development, our client's land at **EP1** (Hogs Yard, Buxton Road, Whaley Bridge (South of Tesco Store)) could accommodate identified retail needs in a highly sustainable manner alongside the existing retail units that already exist and have been found to be significant over-trading.

4.27 Our client's site at **EP4** (Hogs Yard, Buxton Road, Whaley Bridge (North of Tesco Store)) has been marketed for well over 10 years for employment purposes (i.e. B-type uses) by High Peak Developments Ltd and there has been no interest expressed. Aside from retail development, the site also has the potential to



accommodate a leisure and/or tourism use and this could include a new hotel (e.g. Travel Lodge) or a new bowling alley for instance. Whaley Bridge is an excellent base for the Peak District National Park and has a range of attractions in its own right including Goyt Valley and Bugsworth Basin and there are excellent walking and cycling trails in the surrounding countryside. A new hotel and/or leisure development has the potential to support the visitor economy and make an important contribution to supporting the role of Whaley Bridge in the overall settlement hierarchy for the local plan.



5. Summary and conclusions

5.1 In summary, the Submission Version of the Neighbourhood Plan should be changed as follows:

- The plan period should either align with the High Peak Local Plan or the development needs for the Whaley Bridge area beyond 2031 should be identified and planned for.
- The plan should allocate sites for residential development to meet the overall housing requirement for High Peak and that of the Central Area. Given the significant shortfall in affordable housing delivery in High Peak and in the Central Area including Whaley Bridge, sites should be allocated in the Neighbourhood Plan to specifically deliver affordable homes.
- Our client's 2 no. sites at Hogs Yard have capacity to deliver residential development in a sustainable manner or otherwise allocated for retail and/or visitor uses. We would welcome the opportunity to discuss our client's sites with the neighbourhood plan steering group in more detail.
- Finally, the amendments to individual policies as set out in section 5 above should be made.

5.2 This concludes our representations. Please note that we wish to be kept informed of the process moving forward. We would be happy to meet with you to discuss our representations at this stage.



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PLANNING

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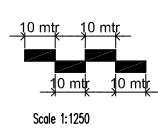
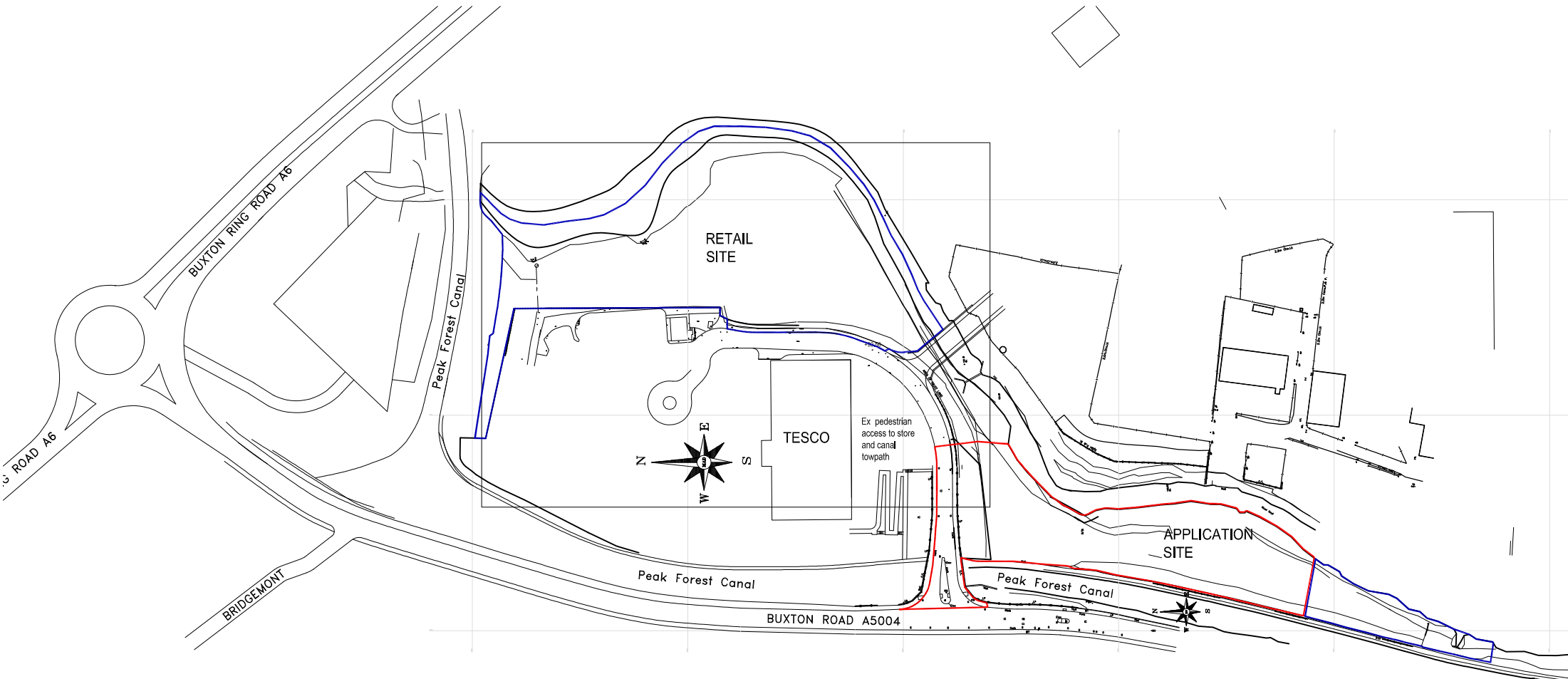
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EP1

PURPOSE OF ISSUE	PLANNING
<small>All dimensions shall be verified by the Contractor(s) on site prior to work commencing and relevant orders being placed. Do not scale from this drawing and only work to written dimensions. Any discrepancies to be brought to the attention of the Contract Administrator for instructions prior to proceeding.</small>	



Maybin Architectural Design

PROJECT:
SOUTHERN STRIP
WHALEY BRIDGE

DRAWING:
LOCATION PLAN
PLAN

Hatherlow House
Hatherlow
Romiley
Stockport
SK6 3DY

DATE:	DRAWN BY:	CHECKED BY:
Aug 14	ARC	CPM
SCALE:	DRAWING NO:	REV:
1:1250	0932-S-04	B

Tel: 0161 494 2800
Fax: 0161 406 7444
email: cpmaybin@btinternet.com

EP2

Statement of Common Ground

Residential development comprising up to 23 apartments
with associated works – Hogs Yard, Buxton Road, Whaley
Bridge, Derbyshire

for High Peak Developments

Emery Planning Project Reference: 9097

LPA ref: HPK/2015/0436

Emery Planning
2-4 South Park Court, Hobson Street
Macclesfield, SK11 8BS
Tel: 01625 433 881
www.emeryplanning.com



unlocking development opportunities

Project : 9097
Site address : Hogs Yard, Buxton Road,
Whaley Bridge,
Derbyshire
Client : High Peak
Developments
Date : August 2017
Author

1. Appeal proposal

- This appeal relates to an outline planning application for the erection of two apartment blocks with associated works to include car parking on land to the south of the access road leading to the Tesco store within the area known as Hogs Yard. Access, scale, appearance and layout is to be considered with landscaping reserved for future consideration.
- The proposed development utilises the same access arrangements and site layout as the planning approval HPK/2013/0268. The built form is also similar in terms of scale and massing as this extant planning permission and is the same in terms of siting. It again comprises two development blocks of part two and part three storeys in scale and massing:
 - Block A: 13 two-bedroom apartments and positioned adjacent to the main access into the site; and
 - Block B: 10 two-bedroom apartments and positioned to the south of the site.
- Further to the grant of planning permission HPK/2013/0268, the external appearance of the buildings has been revised such that it incorporates more natural stone facing, a traditional slate pitched roof and domestic windows, patio doors and balconies. The two apartment blocks have been designed such that they provide active frontages onto the public realm.
- The scheme also incorporates a number of ecological measures to ensure that the proposal accords with local and national planning policy including the re-creation of a redundant dried out ephemeral pond, the management of the broadleaved woodland with a management programme for the control of invasive species, planting of semi-improved grassland and scrub and the planting of native species.
- The main access into the site would be via the existing main roadway that links the A5004 to the Tesco store to the north. The proposed layout provides for adequate internal turning space and car parking for 46 vehicles.

2. Site description

- The site lies within the built-up area of Whaley Bridge as shown in the adopted local plan. The southern boundary of the site is located to the north of the town centre of Whaley Bridge.
- Access to the site is gained via the shared access road to the Tesco store on the adjoining area of land to the north. This roadway forms a junction with the A5004, which itself links with the roundabout junction on the A6 to the north and runs through Whaley Bridge to Buxton to the south. Pedestrian access is gained via this main access and the adjacent canal towpath.
- The site forms part of a wider area, known as Hogs Yard, and it is sited in an area of lower-lying land in comparison to the A5004 to the west and the A6 to the north. The northern and western boundaries of the site are defined by the road and the Peak Forest Canal with the River Goyt running around the eastern and southern boundaries. Beyond the south-eastern boundary of the site on the opposite side of the River Goyt, there is the established Bingwood Industrial Estate. The site is screened from view by existing tree cover from the nearby industrial development and is at a lower level than the main highway although views from the site are possible from the internal access road into the wider Hogs Yard area and the canal tow path
- Part of the original Hogs Yard has been developed to provide a Tesco store with associated car parking and a filling station. This store lies immediately to the north of the appeal site. Land to the north-east of the appeal site, and to the east of the Tesco store, was the subject of a grant of planning permission in February 2017 for a 2,231sqm retail building (A1 Use) with associated works to include a 4.8m high boundary fence and 103 car parking spaces (LPA ref: HPK/2016/0594). The approved plans and Committee report are enclosed at EP1 of the Appellant's Response to the LPA's Statement (July 2017).
- The appeal site is located on the main bus route into Whaley Bridge along the A5004. There is a bus stop, provided as part of the redevelopment of the Tesco site, adjacent to the site. Access to the canal towpath is via steps directly opposite the proposed new access into the proposed residential development. The town centre and main railway station are located approximately 400m to the south of the appeal site.

Background to the allocation of the site in the development plan

- The appeal site has been allocated for employment/mixed-development purposes in the development plan since the High Peak Local Plan was adopted in 1998 (Primary Employment Zone). Over the subsequent eighteen years the site has not come forward for development for employment purposes. Indeed, the appellant initially secured outline planning permission in 2004 for the redevelopment for food and drink, leisure and/or office purposes.
- The adopted Local Plan Policy DS11 states that the Bingswood area, incorporating the appeal site, should be developed for business and mixed-use development. It states that appropriate uses for the appeal site may include business, hotel assembly and leisure, food and drink, tourist accommodation and facilities.
- The appeal site has become increasingly overgrown and unkempt. It is sustainably located within the settlement boundaries and the wider Hogs Yard area and in accordance with the NPPF there is a need to secure a sustainable and viable use for the site going forwards.

3. Relevant planning history

Wider Hogs Yard

- Outline planning permission was initially granted in 1992 for a retail/business park across an area of approximately 4 hectares (LPA ref: 030777), which included the appeal site. A reserved matters (LPA ref: 034282) application was subsequently approved and this included 2,347sqm retail space and 1,776 office/business space. The approved access was implemented in 1997 and this consent therefore remains extant.
- The approved application 034282 was subsequently amended in 1999 (LPA ref: 038205). This included the relocation of the approved retail store to the north of the access road into the Hogs Yard site from the A5004, and the business units were shown on the eastern side of the Hogs Yard site.
- The existing Tesco store to the north of the appeal site stems from two further planning applications in 2001 for an extension to the approved food-store and the erection of a petrol filling station (LPA ref: 39795 and 39794).



- Land to the north-east of the appeal site, and to the east of the Tesco store, was granted planning permission for a mixed business, retail and restaurant scheme comprising approximately 2,230sqm floorspace (LPA ref: HPK/2012/0087). This was an extension of time to a previously approved scheme (LPA ref: PK/2009/079).
- Although the approved development referred to above (LPA ref: HPK/2012/0087 represented the same scheme that had been granted planning permission by the Council in 2009 (LPA ref: LPA ref: PK/2009/079), the Council refused to grant planning permission on the basis of its design. The Inspectorate allowed the subsequent appeal with costs awarded against the Council on the basis of unreasonable behaviour (PINS ref: APP/H1033/A/12/2187670). Subsequently, the approved scheme was revised such that it incorporated three retail units only with a floorspace of 2,322sqm (LPA ref: HPK/2013/0300).
- Planning permission HPK/2012/0087 has been lawfully implemented by the Appellant through the carrying out of access works.
- More recently, the site subject to HPK/2012/0087 was also granted planning permission in February 2017 for a 2,231sqm retail building (A1 Use) with associated works to include a 4.8m high boundary fence and 103 car parking spaces (LPA ref: HPK/2016/0594). The approved plans and Committee report are enclosed at EP1 of the Appellant's Response to the LPA's Statement (July 2017).

The appeal site

- Outline planning permission was approved by the Council in 2005 for a mixed-use development including offices, food/drink and assembly and leisure (LPA ref: HPA/2004/0590). Reserved matters were approved in August 2008 (LPA ref: HPK/2008/0360) and this consent was extended twice, in 2010 (LPA ref: HPK/2010/0206) and in 2013 (LPA ref: HPK/2013/0268).
- The relevant pre-development conditions relating to HPK/2004/0590 and HPK/2013/0268 have been discharged by the Council.
- A lawful start has now been made on planning permission HPK/2013/0268 through the carrying out of access works.
- The most recent planning application relating to the appeal site, prior to the appeal proposal, also related to an outline planning application for 23 apartments. This application was

withdrawn by the applicant in March 2015 (LPA ref: HPK/2014/0660) further to concerns raised by the Derbyshire Wildlife Trust in relation to the absence of reptile surveys. Officers also raised concern about the design of this proposed development with issues raised by officers including the 'commercial appearance' of the proposal.

Pre-application meeting with officers

- Following the withdrawal of HPK/2014/0660, the appellant and their architects, Maybin Architectural Design, met with officers in April 2015 in order to discuss the design of the proposal in more detail.
- Council officers advised that the site was not readily developable in landscape terms and any residential scheme should comprise circa. five cottage type dwellings only.

4. Planning policy

The adopted development plan

The Development Plan consists of the adopted High Peak Local Plan 2016 and policies relevant to this appeal are listed below,

- S1 Sustainable Development Principles
 - S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
 - S3 – Strategic Housing Development
- S4 Maintaining and Enhancing an Economic Base
- S6 Central Sub-area Strategy
- EQ1 Climate Change
- EQ2 Landscape Character
- EQ5 Biodiversity (EQ4 in the submission version)

- EQ6 Design and Place Making (EQ5 in the submission version)
- EQ9 Trees, woodland and Hedgerows (EQ8 in the submission version)
- EQ10 Pollution Control and Unstable Land (EQ9 in the submission version)
- EQ11 Flood Risk Management (EQ10 in the submission version)
- H1 Location of Housing Development
- H3 New Housing Development (H4 in the submission version)
- CF6 Accessibility and Transport
- E4 Change of use of Existing Business Land and Premises
- E5 Regenerating an Industrial Legacy
- DS11 Bingswood Whaley Bridge

A separate Statement of Common Ground on housing land supply is presently being prepared by the Council and the Appellant.

5. Agreed matters

- The following matters are agreed:

Policy

- Although the site has been allocated as a regeneration site for almost 20 years in the various iterations of the local plan, it has remained vacant despite extant consent HPK/2013/0268 having been implemented.
- A separate Statement of Common Ground is presently being prepared with regard to housing land supply.
- Principle of residential development is acceptable (subject to the Inspector's views on design, layout, permeability, relationship with the canal, amenity and outlook and the potential impact on character and appearance).
- The provision of open market and affordable housing attracts weight in the decision-making process.

Affordable housing

- The provision of affordable housing attracts positive weight in the decision-making process. The affordable housing needs for High Peak are set out in the most recent SHMA and equate to 526 affordable homes per annum (net).

Landscape

- The landscape impact appraisal prepared by Wardell Armstrong confirms that the site is developable in landscape terms.

Design and appearance

- The Canals and Rivers Trust raise no objections to the appeal proposal on the grounds of 'design' provided conditions were imposed. The area can be characterised as follows:
 - the built form within Bingswood/Hogs Yard comprises a range of buildings of different sizes, layout and design with an industrial estate on the opposite side of the River Goyt and the existing Tesco development to the north;
 - there is no clear street pattern from which to integrate the proposed development into;
 - the Peak Forest Canal extends adjacent to the western boundary of the site and is an important recreational route.

Ecology and wildlife

- The scheme incorporates a number of ecological measures to ensure that the proposal accords with the development plan and the NPPF

Highways and accessibility

- The proposed access arrangements would be acceptable in terms of highways design, geometry and visibility.
- The proposed development would benefit from safe and suitable access arrangements.
- The site is locationally sustainable in relation to key services and public transport for residential development. It is located within the settlement boundaries of Whaley Bridge.
- The site would benefit from direct and convenient access to the canal towpath through the footpath directly opposite the appeal site, which is formally laid out and lit.

Fallback position

- The Appellant has made a lawful start to planning permission HPK/2013/0268 through the carrying out of access works. All pre-development conditions had already been discharged by the Council. This planning permission thereby remains extant.
- The siting of the buildings and the access arrangements are the same as approved by the Council for HPK/2013/0268 and the scale and massing is similar. The approved plans for HPK/2013/0268 are at EP3 of the Appellant's Appeal Statement (April 2016).
- The appeal proposal would present more active frontages onto the canalside relative to the extant planning permission HPK/2013/0268 through habitable windows facing the towpath and the residential use providing natural surveillance and enhanced street level activity.
- There has been no material change in the site context in the intervening period between the grant of planning permission HPK/2013/0268 and now, aside from the grant of planning permission HPK/2016/0594 in February 2017 by the Council for a 2,231sqm retail building (A1 Use) with associated works on land to the north-east of the appeal site, and a lawful start having been made on planning permission HPK/2012/0087 through access works.

Other matters

- The Appellant and the Council will work together to agree a S106/UU for the following:
 - The provision of affordable housing.
 - Commuted sum for education of £25,764.23 (this sum mitigates impacts arising on educational provision in the area).
 - Commuted sum for open space (play and open space)
- There are no technical objections from statutory and non-statutory consultees aside from the Council's Conservation Officer.
- The proposed development would have an acceptable impact on the following:
 - flooding and drainage;
 - air quality;
 - contaminated land;
 - arboricultural impacts.

6. Matters not agreed

- The following matters are not agreed between the Appellant and the Council:
 - The weight to be attached to the benefits associated with the appeal proposal.
 - The design, scale, massing and siting of the proposed buildings (Block A and Block B).
 - The overall site layout of the appeal proposal.
 - The change in appearance of the site and whether there is harm to the distinctiveness and character of the area.
 - The impacts on the future occupiers of the apartments in terms of outlook and privacy.

Signed on behalf of the appellant

 Position: Director EPP Date: 16.8.2017

Signed on behalf of local planning authority

Statement of Common Ground
Hogs Yard, Buxton Road, Whaley Bridge, Derbyshire
April 2016

X *B.J. Haywood*

Signed by: Ben Haywood

Position...Operations Manager – Development Services

Date 15th August 2017

EP3



Appeal Decision

Hearing held on 4 October 2017

Site visit made on 4 October 2017

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th October 2017

Appeal Ref: APP/H1033/W/16/3149003

Land at Hogs Yard, Buxton Road, Whaley Bridge, High Peak SK23 7LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by High Peak Developments Ltd against the decision of High Peak Borough Council.
 - The application Ref HPK/2015/0436, dated 29 July 2015, was refused by notice dated 26 October 2015.
 - The development proposed is residential development comprising 23 apartments with associated works to include car parking.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by High Peak Development Ltd against High Peak Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was submitted in outline with access, appearance, layout and scale to be determined at this stage. I have dealt with the appeal on this basis.

Main Issues

4. The main issues in the appeal are:
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether or not the proposed development would provide adequate living conditions for future occupiers with particular regard to private outdoor space and outlook.

Reasons

Character and appearance

5. The appeal site lies within the town of Whaley Bridge. It forms part of a wider site known as Hogs Yard, which together with land adjacent to Bingswood Industrial Estate is allocated for business and mixed use development within

Policy DS11 of the *High Peak Local Plan (adopted April 2016)* (HPLP). Part of this has been developed for a Tesco store and permission was granted¹ earlier this year for another large retail unit on the site opposite this store. Although the industrial estate lies to the other side of the River Goyt, the extensive vegetation along the river banks means there is no significant views of it from the site, the canal or the road.

6. The site itself is a relatively long narrow site that lies between the River Goyt and the Peak Forest Canal. It is currently vacant and has an unkempt appearance, although the southern end in particular contains a number of trees. The topography of the area is such that it lies at a lower level than the canal, the adjacent road that leads from the centre of the town to the A6, and the access road that leads into the wider site. The site has an extant permission² for a mixed use scheme that would comprise a mixture of offices, food and drink, and assembly and leisure uses.
7. The proposed development would consist of two part-2, part-3 storey apartment blocks, one of which would be roughly parallel to the access road into the wider site, and the other one would back onto the canal. The layout, scale, mass and form of these two blocks would be similar to those in the extant permission, but the materials and elevational treatment would be different.
8. Despite the difference in levels the proposed development would be clearly visible from both the adjacent canal and road, and along the towpath in particular the blocks would be a dominant feature, despite the tree cover in the area. Nevertheless, whilst the development would significantly alter the appearance of the site, and give it a much more urban feel, this would also be the case with the extant mixed use scheme on the site. However, the Council have argued that whilst this is appropriate for a commercial development on the site it is not for a residential scheme.
9. The *Residential Design Supplementary Planning Document (adopted December 2005)* (SPD) identifies that Whaley Bridge has an irregular and organic settlement pattern which needs to be reflected in new housing development. Housing in the town is generally small scale with two storey traditional cottages being the predominant form of housing, and this gives a strong sense of character to the town. The SPD highlights that as apartment blocks are not part of the intrinsic historic character of the borough, standard designs may look out of place, and apartments should be designed to reflect the local building form, and the height, scale and massing of the street.
10. However, in the appeal scheme, the height, scale and mass of the proposed apartment blocks would be such that they would be totally out of keeping with the general character and form of residential development within the town. Although a busy transport corridor into and out of the town, the limited visibility of the existing Tesco store and the industrial estate, the sporadic nature of residential development along it, and the heavy tree cover in the area, give it an attractive green character. The dominant nature of the blocks, especially as seen from the adjacent towpath, and the density of the residential development proposed on the site, would be in marked contrast to this.

¹ Application Reference HPK/2016/0594

² Application Reference HPK/2013/0268

11. Moreover, the regular pattern of the fenestration, the horizontal emphasis of many of the windows, and the glazed balconies and balustrades, would all contribute to giving the blocks a strong urban character and appearance that would not respect the rural market town context of the site. As a result, and contrary to the guidance in the SPD, the scheme would detract from, rather than contribute to, the local distinctiveness of Whaley Bridge. Although visually the site is separated from the town centre by the canal basin and woodland areas, its close proximity to this and its location within the built up boundaries means, in my view, it should still reflect the local residential character.
12. Whilst the overall design of the blocks themselves would be legible enough to show that they are residential in nature, the large amount and layout of parking and turning areas around the blocks, and the limited amount of amenity space, is far more characteristic of a commercial scheme. Not only would this layout be inappropriate for a residential development, but it means that overall the scheme would lack legibility.
13. I note that historically, as transport routes canals may have had large buildings alongside them, which in places still exist today, and to that end my attention was specifically drawn to the large factory alongside the canal at New Mills. However, I observed that the context of this building was very different to that of the site, as it is a bigger town with a greater number of larger buildings.
14. Therefore, I consider that the proposed development would unacceptably harm the character and appearance of the area. Accordingly, it would conflict with Policies EQ6 and S1 of the HPLP which require that development has a high quality of design that respects and takes account of the distinct character, identity and context of different settlements and areas.

Living Conditions

15. Although the landscaping of the site is a reserved matter, the site layout shows that the proposed apartment blocks, access road and parking/turning areas would occupy the vast majority of the site. Much of the remaining land is steeply sloping embankments, or is heavily shaded by the surrounding trees, or consists of small areas of land between the blocks, parking/turning areas and the access road.
16. The Council has not referred to any minimum standards for the amount of outdoor space that should be provided in new residential development, but the SPD highlights the importance of the provision of private and semi-private external spaces for residents.
17. The apartments on the top floor would each be provided with a roof terrace, but the balconies provided for the first floor apartments would not be of a sufficient size to allow future occupiers to sit outside, and many of the patio doors on the ground floor flats would open out onto areas of hardstanding around the parking spaces. As such the majority of the apartments would be provided with little or no private external space.
18. The site layout plan does not identify any communal outdoor space for either block. Given the characteristics, outlined above, of the remaining land on the site, I am not persuaded that useable and private communal outdoor space

- would be able to be provided on the site for future occupiers, especially as much of the site is overlooked from the canal towpath.
19. In addition, given the difference in levels between the site and the canal and the access road into the wider site, many of the ground floor windows on the rear elevations of the blocks would be in close proximity to steeply sloping embankments. As these windows would generally be the only windows that serve the rooms, the presence of the embankments would have an overbearing impact and dominate the outlook from these rooms.
 20. It has been suggested that some people do not want outdoor space, that there is ready access to open countryside close to the site, and that future occupiers would be aware of the outlook from windows, and the level of outdoor space provided before purchasing the property. Be that as it may, a core planning principle of the *National Planning Policy Framework* (the Framework) is that developments should provide a good standard of amenity for all existing and future occupants of land and buildings. Policies EQ6 and S1 of the HPLP are broadly consistent with this objective. As such, the imperative to boost significantly the supply of housing should not be at the expense of providing satisfactory living conditions. Therefore, as I have concluded that this would be the case with the appeal scheme, I am not satisfied that the appellant's arguments provide adequate justification for allowing it.
 21. The appellant has argued that the nature of the topography in the area means that many houses, including a small development on the opposite side of the A5004 that has recently been granted permission, have steeply sloping rear gardens which results in a limited outlook from windows in the rear elevations. Whilst I did see this nearby site, and the surrounding topography, I do not know the layout of the scheme, the distances that would be maintained from windows to any slope, the nature of the rooms these windows would serve, and whether the rooms would also be served by other windows. As such, I cannot be sure it represents a direct parallel to the appeal scheme. I have in any case determined the appeal on its own merits.
 22. Overall, I consider that the proposed development would not provide acceptable living conditions for future occupiers with particular regard to outdoor space and outlook. Consequently, it would conflict with Policies EQ6 and S1 of the HPLP which require that development provides a high standard of amenity for all existing and future occupants of land and buildings.

Other matters

23. Concern was raised regarding the permeability of the proposed scheme, and in particular the lack of any direct access from the site to the canal towpath, which provides an attractive walking route into the town. Whilst it would be desirable for such a link to exist, both stepped and ramped access is provided to the towpath via the adjacent Tesco site, and pavement along the main road also provides convenient access to the town. Whilst I accept that this access to the towpath is not in the appellant's ownership or control, even without this, I consider that the site would still have adequate and easy pedestrian access into the town.
24. The appellant has pointed out that the extant permission on the site could be built and that this represents a fallback position. However, the appellant's evidence states that despite being allocated in the Local Plan and extensive

marketing, the development of the site for commercial purposes has not been possible. As such, I have no substantive evidence to indicate there is a significant probability that the fallback scheme would be constructed should this appeal be dismissed. This limits the weight I attach to it as a fallback position. Furthermore as a commercial rather than a residential scheme, the fallback does not give rise to the same concerns regarding the living conditions of future occupiers, or the character and appearance of the area.

Planning Obligation

25. The appellant has submitted a signed Section 106 agreement which makes contributions towards education, outdoor sports facilities, parks and gardens, play space and to secure the provision of at least 20% affordable housing within the development. I have considered this in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 204 of the Framework.
26. *Education.* Policy CF3 of the HPLP indicates that new developments will be required to make adequate provision for infrastructure requirements, including education provision, that arise as a consequence of the development. The Education Authority has indicated that whilst the local primary schools would be able to accommodate the additional demand that could be generated by the proposal, the secondary school does not have additional capacity and the proposal would generate demand for 3 additional places. Justification has been provided for the financial contribution being sought, and is provided for within the agreement. The Education Authority has also confirmed that there are no pooling concerns with this contribution. Given this I consider that this obligation would meet the statutory tests.
27. *Open Space.* The Obligation makes contributions for outdoor sports facilities, parks and gardens and children's play space, which would be used to fund the improvement and maintenance of specific projects in a local park and a play space, both of which are in the vicinity of the site. This is supported by Policy CF4 of the HPLP which details the need for new developments to contribute towards public open space and sports facilities in line with Peak Sub Region Open Space, Sport and Recreation Study 2012. The "Calculating developer contributions for open space and outdoor recreation" note sets out the justification for the costings, and the Council have confirmed that the proposed projects have not received more than 5 commuted sum contributions. I consider that the contributions sought by the Council in this respect are directly related to the development and are fairly related in scale and kind. As such they would accord with the statutory tests.
28. *Affordable Housing.* The Obligation makes provision for not less than 20% of the units to be provided as affordable units, with 80% of these being affordable rented accommodation and 20% intermediate housing. This is supported by Policy H4 of the HPLP, the Strategic Housing Market Assessment 2014 and the Housing Needs Survey. The Obligation sets out detailed arrangements for the transfer and management of these units. As such, I am satisfied that the agreement would ensure the development contributes to affordable housing needs within the borough, and I consider the obligation passes the statutory tests.

Planning Balance and Conclusion

29. The development would provide some temporary work for local contractors and spending by future occupiers would benefit the local economy. Whaley Bridge has a good range of shops, services and facilities as well as both bus and train services, all of which would be in walking distance of the site. Given the aim of the Framework to significantly boost the supply of housing, the provision of new open market and affordable housing would be a clear benefit of the scheme. The scheme would improve the natural surveillance of the towpath, and would also bring about ecological enhancements such as the management of the surrounding woodland, and the recreation of a redundant, dried out ephemeral pond. Whilst the proposal would also provide contributions to education and open space, as these would mitigate the detrimental impact of the proposal, they would be a neutral factor rather than a benefit of the scheme.
30. The appellant and the Council differ over the availability of a deliverable 5 year housing land supply, but have agreed that the issue is not determinative in this case, and so the matter was not discussed in depth at the hearing. I accept that the issue is not critical to the outcome of the appeal. As a windfall site within the town of Whaley Bridge, the principle of residential development would be supported by Policy S3 of the HPLP, but the proposal would still need to show compliance with the other policies outlined above. However, even if I were to conclude that there is a shortfall in the 5 year housing land supply of the scale suggested by the appellant, and that relevant policies for the supply of housing should not be considered up to date, thereby triggering the tilted balance defined by paragraph 14 of the Framework, the adverse impacts of granting permission, I have outlined above would significantly and demonstrably outweigh the benefits. As such, that balance would not indicate that planning permission should be granted. This means it is not necessary to consider the matter of housing land supply further.
31. I have concluded that the proposed development would be detrimental to the character and appearance of the area, and would not provide adequate living conditions for future occupiers. As such it is contrary to policies within the HPLP. In this case, although I have given weight to the benefits of the proposal, I consider that they would be insufficient to outweigh the harm I have identified the scheme would cause. Therefore, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Rawdon Gascoigne BA (Hons) MRTPI	Emery Planning
Ben Pycroft BA (Hons), DIP TP, MRTPI	Emery Planning

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Reid	Counsel
Ben Haywood BA (Hons), MA, MBA, MRTPI, MCMI	Operations Manager, High Peak Borough Council
Faye Plant BA (Hons), MA, MRTPI	Planning Officer, High Peak Borough Council
Joanne Brooks BA (Hons) MRTPI	Regeneration Officer, High Peak Borough Council
Melissa Kuirhara MLPM, MRTPI	Associate Planning Consultant, Urban Vision Partnership
Hilary Senior BA (Hons), MCD, MRTPI	Regeneration Officer, High Peak Borough Council

DOCUMENTS SUBMITTED AT THE HEARING

1. High Peak Local Plan Policy S3 submitted by the Local Planning Authority
2. Residential Design Supplementary Planning Document (adopted December 2005) submitted by the Local Planning Authority
3. High Peak Local Plan Policy S2 submitted by the Local Planning Authority
4. Extract from the High Peak Local Plan Proposal Map
5. Signed Section 106 Agreement submitted by the appellant
6. Community Infrastructure Level Statement relating to the Section 106 Agreement submitted by the Local Planning Authority
7. Updated list of suggested conditions submitted by the Local Planning Authority

EP4



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