



**IAIN TAVENDALE F.Arbor.A.**

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ARBORICULTURAL CONSULTANT

**Town & Country Planning Act 1990 (As Amended)**

**Planning Appeal**

**By Wain Homes (north West) Limited.**

**Against the Refusal of Full Planning Permission**

**By High Peak Borough Council**

**For a Residential Development of Land at Dinting Vale, Dinting,**

**Glossop, Derbyshire, SK13 6PA.**

**Summary Proof of Evidence of**

**Iain Tavendale F.Arbor.A.**

Pins Ref: APP/H1033/W/24/3339815

LPA Ref: HPK/2022/0456

## **Experience:**

I am an independent Arboricultural Consultant.

I have over 50 years' experience within the industry both as a self-employed contractor and consultant.

I am a Fellow of the Arboricultural Association, and a member of the International Society of Arboriculture and the Royal Forestry Society of England, Wales and Northern Ireland.

### **1. The Appeal Site and Its Settings.**

1.1 The appeal site has been fully described in other submissions.

### **2. The Appeal Proposals.**

2.1 Again, these have been comprehensively described in other Proofs of Evidence.

### **3. Reason for Refusal.**

3.1 The Appeal the Notice of Refusal dated 22<sup>nd</sup> April 2024 states;

*"3. The proposed section 106 package fails to achieve a policy compliant level of affordable housing and fails to fully mitigate for the substantial tree loss and loss of biodiversity on the site. Whilst the viability issues are noted, in the absence of a policy compliant Section 106 package the residual harm arising from the development is considered to outweigh the benefits of delivering this allocated housing site contrary to Policies DS4, EQ9, EQ5, H3 and H4 of the adopted High Peak Local Plan 2016 and the NPPF".*

3.2 However, an email from Nicola de Bruin of 07.05.2024, advised that:

*"I can confirm that the Council is content that the appellant is now proposing to provide full mitigation for the biodiversity element of the remaining reason for refusal 3 and so the Council are no longer alleging any conflict in respect of Policy DS4 in relation to biodiversity as any harm will be mitigated for."*

### **4. Status of Trees.**

4.1 Trees within the site were made the subject of an Area Order on the 1<sup>st</sup> February 2024 (CD 6.9).

4.2 An objection to the Order was submitted to the Council in March 2024 (CD 6.11).

### **5. Arboricultural Background to the Site.**

5.1 The site is allocated and was considered at EiP. Consideration of the allocation would have noted the trees present both on the AS and adjacent Council owned site. The allocation would have recognised the need to address both tree loss and mitigation.

5.2 An Arboricultural Impact Assessment was prepared by TEP in August 2023 (CD 2.65).

5.3 The Arboricultural Officer provided his final comments (following design revisions to the proposals) back to the Planning Officer in a Consultation response dated 24.11.22 (**CD 6.22**). Within his response the Officer raised no concerns as to the accuracy or findings of the Assessment, but noted that *inter alia*:

*“The updated scheme, from the point of view of the interaction of the proposed houses/gardens with the existing woodland/trees, is a dramatic improvement on the previous scheme, however from the point of view of its overall impact on trees and woodland and the schemes inability to mitigate damage I have to provide an objection to this proposal.....”*

5.4 The Officer concluded that should consent be granted various conditions and a section 106 would be required.

5.6 Such Conditions can be readily addressed should consent be forthcoming.

5.7 This Arboricultural Impact Assessment has been appropriately utilised by the appellants.

**6. BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.**

6.1 Utilising the Standards, a record of the trees/hedgerows on a site can be made to assist all parties to determine all necessary issues.

6.2 However, the survey is only truly accurate at the time of production as trees are living structures and can decline rapidly due to numerous factors. E.g. decline of Ash within W6 due to Ash dieback.

6.3 Management can be implemented, but is a matter for the owners’ discretion, subject to the duties laid upon them by the common law. If a LA wishes to encourage such works, it must do so by permission, grants or the imposition of conditions or consents.

6.4 Although tree losses will be caused by construction, the imposition of Conditions can protect, monitor and manage retained trees plus enforce replanting, to improve and enhance the treescape.

**7. The HPBC Tree Preservation (Land at Dinting Glossop Derbyshire) Order 2024 No.314.**

7.1 As a result of the imposition of this Order, a detailed objection (**CD 6.11**) was submitted.

7.2 It concluded that it was not expedient to serve the Order, it prejudices and obfuscates the planning process and fails to follow Government guidance.

7.3 Furthermore, that the Council has not demonstrated how the “amenity value” of the trees have been assessed.

7.4 It is also evident that the order covers extensive areas where no tree material exists.

7.5 It was respectfully requested therefore that the Order be revoked.

## 8. Development Proposals and Tree Removal / Replacement.

8.1 The Arboricultural Impact Assessment (**CD2.65**) details in paragraphs 4.8 – 4.22 the proposed tree removal and replacement strategy, based on achieving a canopy cover target.

8.2 TEP concluded that the proposals would result in tree replacement at a rate of 101% by canopy after 25 years.

8.3 The quantum of tree planting proposed by the Appellant is:

New tree planting within green infrastructure / POS: 65 trees

Street tree planting & new in plot planting: 126 trees. (Note; as par **CD3.1** paragraph 7.18.20 no credit was given by the LPA for trees in calculating the off-site requirement.)

Sizes to comprise a mix of 10-22cm; 12-14cm; 16-18cm & 20-25cm girths.

Compensatory Woodland Mix 1665 whip size trees – see **CD2.106** – Drawing 201 Rev J.

8.4 The Committee Report (**CD3.1**) at 17.8.20 (page 53 of the pdf) states that:

*“Overall the Council’s Arboricultural Officer objects to the proposal without further mitigation. Garden trees do not count towards this and street trees only count if the highway is adopted (which is currently not expected due to the access gradient). It is emphasised that a significant Section 106 payment / agreement would be required to ensure the lost tree mitigation is recreated elsewhere in the Glossop area”.*

8.5 Whilst the Officer may consider that garden and unadopted street trees do not count, it is reasonable to consider that the treescape of many urban environments consists mainly of trees in gardens and unadopted streets, highway trees being in short supply due to access requirements, utilities, street furniture or similar. These trees provide visual amenity, screening, shade and a desirable environment.

8.6 Indeed, many garden trees are included within TPOs and are directly protected in the interests of amenity and biodiversity.

8.7 In consideration of typical urban treescapes therefore, it is reasonable to consider that garden and street trees should count in any mitigation.

8.8 Within HPBC Planning Committee Report (**CD3.1**) the Arboricultural Officers requirements for 2:1 replacement are discussed.

8.9 However, within the agreed viability constraints of the site, Planning Officers were aware that the level of contribution sought by the Officer would not be viable. Applying the provisions of Policy EQ9 Officers determined that 1:1 replacement planting (again taking no account of in plot and street tree

planting) would be justifiable and this led to their conclusion that a contribution of £72,400 and £19,840 for maintenance ought to be secured.

## **9. Development Proposals and Tree Removal / Replacement.**

9.1 53No. 3<sup>rd</sup> party comments have been received of which, 17 raised concerns over trees – primarily in respect of losses, all of which has been previously addressed.

## **10. Summary and Conclusions.**

10.1 All trees within the site were included within a TPO imposed on 1<sup>st</sup> February 2024. An objection was submitted in respect of the Order.

10.2 An Arboricultural Impact Assessment was prepared in respect of the site including a detailed assessment of all tree material present. This Assessment has not been questioned by the Authority.

10.3 BS5837:2012 has been utilised in the design process and it has been shown that retained trees can be protected during construction to maximise future potential and viability.

10.4 The Arboricultural Impact Assessment details proposed tree removal and replacement strategy based on achieving a canopy cover rather than an individual tree count. This concluded that that tree replacement would be 101% by canopy after 25 years.

10.5 The quantum of tree planting proposed by the appellant is:

Tree planting within green infrastructure / POS - 65 trees

Street tree planting and new in plot planting – 126 trees

Compensatory Woodland mix - 1665 whip size trees.

10.6 In the Committee Report, the Arboricultural Officer stated that garden and trees in unadopted highways did not mitigate for tree losses caused by construction.

10.7 However, many urban environments consist mainly of such trees, and many items provide significant visual amenity and are frequently protected by TPOs.

10.8 The Arboricultural Officer's requirements for a 2:1 tree replacement was considered however, the Planning Officers were aware that the level of contribution sought would not be viable and applying the provisions of Policy EQ9 determined that 1:1 replacement planting would be justifiable.

10.9 3<sup>rd</sup> party comments have been considered and it is evident that there is concerns over tree loss, all of which has been previously addressed.