



IAIN TAVENDALE F.Arbor.A.

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.

Proof of Evidence of

Iain Tavendale F.Arbor.A.

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

LPA Ref: HPK/2022/0456

I am an independent Arboricultural Consultant operating throughout the North of England.

I have over 50 years' experience within the industry both as a self-employed contractor (20 years) and consultant (32 years).

I therefore have a considerable practical experience in a wide range of arboricultural and silvicultural practices, and am still actively involved in numerous management schemes involving trees within woodlands, development sites, and garden environments.

My consultancy practice has a broad client base and I am actively involved with many Local Authorities, Developers, Architects, Planning Consultancies, Health Authorities and Legal Practices.

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

In respect of the matter in hand, I was approached by Wain Homes in April this year to enquire whether I was available to review the Survey work done on trees and as appropriate undertake the Inquiry on their behalf. I was provided with a comprehensive bundle of documents relating to the applications together with various tree surveys, plans etc.

After a preliminary site visit on the 15th April, I joined a Teams meeting on the 25th of April at which time the various issues, proposals etc. were discussed. I indicated I had satisfied myself that I believed the arboricultural proposals to be appropriate and that I was therefore prepared to act on their behalf.

I was subsequently instructed by Wain Homes Ltd.

1. The Appeal Site and Its Settings.

1.1 The appeal site has been described in detail in various other submissions as part of the planning processes and it is not considered necessary to repeat such information at this time.

2. The Appeal Proposals.

2.1 Again, these have been comprehensively described in other Proofs of Evidence and by the Planning Officer for the Council although Arboricultural issues will be discussed in the following sections.

3. Reason for Refusal.

3.1 In respect of the Appeal the Notice of Refusal dated 22nd 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, from an email communication from Nicola de Bruin of 07.05.2024, it has been 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 1st February 2024 (**CD 6.9**).

4.2 The communication attached to the served order advised that: “We have made the Order because it is expedient in the interests of amenity and biodiversity”.

4.3 An objection to the Order was prepared and submitted the Council in March 2024 (**CD 6.11**).

4.4 No indication has been provided by the Council to advise if the Order will be amended in line with good guidance or, if it will be confirmed.

4.5 Comments and observations on the Order will be made in following sections.

5. Arboricultural Background to the Site.

5.1 The site is allocated in the Local Plan and was considered at Examination in Public. Consideration of the allocation would inevitably have noted the presence of trees on both the Application Site and the adjoining Council owned site. The

allocation would have recognised the need to address the principle of the loss of on-site trees and mitigation.

5.2 A detailed Arboricultural Impact Assessment was prepared in respect of the site by TEP in August 2023 (**CD 2.65**).

5.3 This contained both a full Baseline assessment that included a detailed tree survey in accordance with BS5837:2012 Trees in relation to design, demolition and construction - Recommendations, together with Effects and Mitigation.

5.4 The Council's Tree Officer Mr Craig McCrindle provided his final comments (following design revisions to the proposals) back to the Planning Officer in a Consultation response which is dated 24.11.22 (see CD 6.22 – however that response was actually uploaded to the Council's web site on 20 August 2023 and hence it is assumed the date in the response is a typo. Indeed reference to the Development Control Committee report (CD 3.1 – see Page 28 of the pdf) notes that the last response from the Officer was actually received on 16.08.23. Within his final response the Tree Officer raised no concerns as to the accuracy or findings of the Arboricultural Impact Assessment, but simply 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”

5.5 Mr McCrindle concluded that should Development Control be minded to grant consent then various conditions and a section 106 would be required. He suggested:

- Arboricultural conditions including both protection of trees/hedgerows and planting locations together with Tree Monitoring by the Project Arboriculturalist. Other conditions were proposed relating to landscaping.

5.6 Any such Conditions can be readily addressed should consent be forthcoming.

5.7 This Arboricultural Impact Assessment and the contained tree survey has therefore been appropriately utilised by the appellants.

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

6.1 This British Standards clearly advise in their Forward that;

This British Standards takes the form of guidance and recommendations. It should not be quoted as if it were a specification and particular care should be taken to ensure the claims of compliance are not misleading.

6.2 By following the guidance and recommendations, a record of the trees and hedgerows on a site can be made and which assists all parties to determine all necessary issues.

6.3 However, the survey is only truly accurate at the time of production as trees are living structures and can decline quite rapidly due to numerous factors such as infection, storm damage or vandalism.

6.4 In the site under consideration, although the woodland W6 leading down to Dinting Vale is categorized as A (1, 2, 3) it is now evident that there are numerous Ash with Ash dieback (*Hymenoscyphus fraxineus*) including items near the highway, indicating necessary felling or appropriate management.

6.5 Whilst management can be implemented, there is no duty on the owners of the trees and woodlands to carry out pruning or other maintenance, either to any particular standard or at all. This must be a matter for the owners' discretion, subject to the duties laid upon him or her by the common law. If a Local Authority wishes to encourage such works to be carried out, it must do so by permission, through the offer of grants or possibly by the imposition of conditions or consents.

6.6 In this instance, although tree losses will be caused by the proposed construction works, it has been indicated that by the imposition of Conditions, management can be implemented to retained trees which together with replanting, will ensure that the retained treescape is improved and enhanced.

6.7 It has also been recommended that appropriate Conditions should be included concerning tree protection and monitoring during construction which, based on guidance within the standards and tree data recorded, will avoid impacts on retained trees and maximise their future viability.

7. The High Peak Borough Council Tree Preservation (Land at Dinting Glossop Derbyshire) Order 2024 No.314.

7.1 As stated earlier, as a result of the imposition of this Order, a detailed objection (**CD 6.11**) was prepared by TEP and submitted to the Authority.

7.2 This objection 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 included within the order have been assessed. Guidance states that amenity value is assessed in a structured and consistent way taking account of three key criteria, these being; visibility, individual impact and wider impact.

7.4 Finally, that the Order includes trees of low quality – all of which have been clearly indicated in the submitted and accepted assessment.

7.5 From my own site inspection, I would also advise that in respect of the upper sections of the site, the order covers extensive areas where no tree material exists. As such the Order is misleading and could generate unnecessary concerns and objections from third parties who are not so familiar with the site.

7.6 From all such comments and observations, it was respectfully requested that the Order be revoked.

8. Development Proposals and Tree Removal / Replacement.

- 8.1 The Arboricultural Impact Assessment prepared by TEP (**CD2.65**) details in paragraphs 4.8 – 4.22 the proposed tree removal and replacement strategy, which is based on achieving a canopy cover target rather than a count of individual trees.
- 8.2 This approach was considered appropriate as the majority of tree removal would be from woodland where there is no reliable count of tree numbers.
- 8.3 TEP concluded that based on their calculations, the proposed development would result in tree replacement at a rate of 101% by canopy after 25 years. The quantum of tree planting proposed by the Appellant is:

New tree planting within green infrastructure / public open space: 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.)

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

Compensatory Woodland Mix (In the area along the proposed access road from the A57 to the development platform) 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 Arboricultural Officer may consider that garden trees and trees along unadopted highways do not count, it is not unreasonable to consider that the treescape of many urban environments consists mainly of trees in gardens and unadopted streets, highway trees being in comparatively short supply due to requirements for access, utilities, street furniture or similar.
- 8.6 Whilst some trees in such environments may generate a degree of nuisance or concern, the vast majority are accepted and tolerated as providing screening, shade, visual amenity and generally contributing towards the desirability of an area.
- 8.7 Indeed, many garden trees are included within Tree Preservation Orders and / or Conservation Areas and are directly protected in the interests of amenity and biodiversity. The High Peak Interactive Planning Map can be readily utilised to find various examples of protected trees within garden environments in the Glossop area alone.

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

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

8.10 However, within the agreed viability constraints of the site, Planning Officers were aware that the level of contribution sought by the Arboricultural 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. How policy EQ9 is to be applied is a matter from Mr Hourigan's evidence.

9. Development Proposals and Tree Removal / Replacement.

9.1 53 No. 3rd party comments have been received of which, 17 have raised concerns over trees.

9.2 Of these, the concerns primarily relate to tree loss, all of which has been previously addressed together with mitigation / replacement planting.

9.3 No concerns as to protection and security of retained trees appears to have been expressed but in respect of such issues, it has been clearly indicated that appropriate conditions can be attached to any approval to ensure tree protection and monitoring throughout the development thereby maximising the future viability of the treescape.

9.4 Similarly, replacement planting within the development has positioned trees where any potential conflicts would be minimised and they would be expected to grow to maturity and contribute to the local amenity.

10. Summary and Conclusions.

10.1 The appeal site forms part of land that is allocated for development and the proposed vehicular access is in accordance with site-specific policy DS4.

10.2 All trees within the site were included within a Tree Preservation Order imposed on the site on 1st February 2024. An objection has been submitted in respect of the Order.

10.3 A detailed Arboricultural Impact Assessment was prepared in respect of the site by TEP in August 2023 including a detailed assessment of all tree material present. This Assessment has not been questioned by the Authority and has been appropriately utilised by the appellants.

10.4 BS5837:2012 Trees in relation to design, demolition and construction - Recommendations has been utilised in the design process and whilst the Standards do have limitations, it has been shown that all retained trees can be correctly protected during the build process to maximise future potential and viability.

- 10.5 The Arboricultural Impact Assessment prepared by TEP details proposed tree removal and replacement strategy based on achieving a canopy cover rather than an individual tree count. This approach was utilised as the majority of tree removal would be from woodland where there is no reliable count of tree numbers.
- 10.6 It was concluded that based on their calculations the proposed development would result in tree replacement at a rate of 101% by canopy after 25 years.
- 10.7 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.
- 10.8 In the Committee Report, the Council's Arboricultural Officer stated that garden and trees in unadopted highways did not mitigate for tree losses resulting from the development.
- 10.9 It is not unreasonable to consider however that many urban environments consist mainly of such trees due to limited planting opportunities along highways due to services, signage and similar.
- 10.10 All such items provide significant benefits and visual amenity and are accordingly, frequently protected by Tree Preservation Orders or included within Conservation Areas.
- 10.11 The Committee Report also discussed the Arboricultural Officers requirements for a 2:1 tree replacement. 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. This led to their conclusion that an off-site financial contribution in respect of tree planting by the Council (£72,400) and maintenance (£19,840) ought to be secured.
- 10.12 3rd party comments have been considered and it is evident that there is concerns over tree loss. This matter has however been previously addressed together with advice on mitigation / replacement planting.