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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**

SUMMARY PROOF OF EVIDENCE OF MARC HOURIGAN BA(HONS) BPL MRTPI

RELATING TO PLANNING ISSUES

PINS REFERENCE: APP/H1033/W/24/3339815

LPA REFERENCE: HPK/2022/0456

20 MAY 2024



1. INTRODUCTION

RELEVANT EXPERIENCE & QUALIFICATIONS

- 1.1 My name is Marc Hourigan BA (Hons) BPI MRTPI.
- 1.2 I am a Chartered Town Planner. I have 27 years professional experience in the planning and development industry.
- 1.3 I am the Managing Director of the Chartered Town Planning Practice known as Hourigan Planning; based in Manchester and operating across the UK. In 2023 the Practice was a finalist in the RTPI's Awards for Planning Excellence (2023) in the National Small Planning Consultancy Category. On 20 May 2024 the Practice reached the final in the RTPI's Awards for Planning Excellence (2024) in the North West England Small Planning Consultancy Category.
- 1.4 Prior to establishing the Practice in 2009 I held senior positions, up to Director level in a number of international property consultancies including CBRE and Colliers International. Part of my career has also been spent client side where I worked at a senior level at David McLean Homes Group.
- 1.5 My work now involves assisting clients with major housing and employment developments across the UK.
- 1.6 I have previously been called to give expert witness evidence in the field of town planning at numerous Planning Inquiries across the UK and in relation to major housing developments. In the Borough of High Peak notable Planning Inquiry cases have concerned land at North Road, Glossop¹ and Forge Works, Chinley².
- 1.7 For the past 18 years I have lived within 5km of the appeal site. I am therefore familiar with the town of Glossop, the immediate area surrounding the appeal site and the appeal site itself (which I have visited on numerous occasions).
- 1.8 My Proof of Evidence (PoE) has been prepared in accordance with the guidelines and standards of the Royal Town Planning Institute and is therefore produced irrespective of the identity of my client.

¹ PINS Reference: APP/H1033/A/12/2205644 – up to 150 dwellings – allowed on appeal by Decision Letter dated 12 June 2014.

² PINS Reference: APP/H1033/A/13/2189819 – up to 182 dwellings, 1,672 sq. m of business floorspace and up to 279 sq. m of non-residential institution floorspace – allowed on appeal by Decision Letter dated 29 May 2013.



I confirm that the opinions expressed in my PoE are my true and professional opinions irrespective of by whom I am instructed.

THE PLAN LED APPROACH

- 1.9 At the outset of my evidence I noted that the appeal site forms part of a larger parcel of land that is allocated for 130 dwellings in the Local Plan (LP) LP (Policy DS 4 refers). The LP was adopted in April 2016 and hence the principle of developing the appeal site has been established for 8 years. The LP was recently reviewed and the allocation for the appeal site was to be found to be up to date.

THE APPLICATION

- 1.10 Much constructive work was undertaken between the Appellant and the Officers of the Council during consideration of the application. All involved were fully aware that this is a technically challenging site to develop but through collaborative working a solution was found that enabled the professional Officers of the Council to recommend that full planning permission be granted. That was in the full knowledge that viability was a constraint (and had been independently tested) meaning that the full suite of planning obligations sought could not be delivered.

DETERMINATION OF THE APPLICATION

- 1.11 When it came to the determination of the full planning application I am firmly of the view that the elected Members of the Council's Development Control Committee acted unreasonably and relied on vague, generalised or inaccurate assertions about the proposal's impact, which were unsupported by any objective analysis. That much is evident because nearly two months after receiving a copy of the appeal the Council on 22 April 2024 withdrew RfR1 (relating to air quality) and RfR2 (relating to highway safety). At the same point the Council also withdrew RfR4 (relating to alleged rat running concerns along Adderley Place) but as noted by the Officers of the Council and the Appellant this matter was capable of forming the basis of a condition.
- 1.12 Moreover, over 2 months after receiving a copy of the appeal the Council withdrew RfR3 in part relating to biodiversity on 7 May 2024; that is despite the Appellant stating at the outset of the appeal in its SoC, deposited with the Council on 29 February 2024, that biodiversity was to be mitigate for in full.



REMAINING ISSUES BETWEEN THE MAIN PARTIES

1.13 As recorded in the Inspector's note of the CMC there are just two issues remaining in dispute between the main parties and these are as follows:

TREES

1.14 In respect of trees my evidence when taken with that of Mr Tavendale shows that having regard to relevant Development Plan Policies the proposals comply with Policies DS4 and EQ9 and that the proposed on site and off site planting will mitigate the impact of the development. Attention has also been drawn in my evidence to a decision made by the Council in relation to a proposal by Seddon Homes for 101 dwellings at Dinting Road in Glossop and which was considered just 3 months after refusal of the appeal proposal. In that case (and on a site with no viability constraints) Councillors approved a scheme with a replanting ratio of 1:1.15 whereas they expected my clients to adhere to a 2:1 ratio. The two positions are wholly inconsistent in respect of the decision taking in the Borough.

AFFORDABLE HOUSING

1.15 To summarise the position with regards to affordable housing: there is an agreed viability constraint, limited funds are available to deal with planning obligations, the level of funds to deal with planning obligations are, in aggregate agreed, the proposals comply with Policy H4 as the viability constraint is agreed and therefore there cannot be any conflict with other related affordable housing policies cited by the Council, notably Policy H3 and Policy DS4 all of which are inter related and are not to be considered in isolation. Furthermore Policy CF7 which whilst not contested by the Council is relevant in considering the suit of planning policies concerned with planning obligations; but there is no conflict with this policy.

1.16 In summary the proposals comply with relevant LP policies relating to affordable housing.

1.17 In terms of other material considerations harm does not arise (as the Council allege) when affordable housing is not provided due to an agreed viability constraint because to require such provision would fail the Regulation 122 (2) (c) test. Rather no positive weight can be ascribed to the provision of affordable housing when making a decision because obviously none is provided.



OTHER MATTERS

- 1.18 Two further matters were raised in the Council's SoC relating to site wide viability testing and housing land supply. Neither bore any relation to the Council's resolved position having regard to its DN. In relation to the former issue the evidence of Mr Heathcote illustrates that allocation wide viability testing is not required at this stage and in any event the scheme would not be viable even if it was tested in this way. In relation to the later issue the Council's housing land supply document is now dated, does not reflect events of the past monitoring year and in any event significantly underplays the contribution this deliverable site would make to the 5 year housing land supply position as all 92 dwellings would be delivered in the period thereby delivering significant benefits.

THIRD PARTIES

- 1.19 The concerns of third parties have been adequately addressed by the Appellant's witness team across their respective evidence.

PLANNING BALANCE

- 1.20 I have considered the effects of the development through a planning balance exercise. The effects of the proposed development are overwhelmingly positive and there is certainly no harm as is alleged by the Council in its remaining RfR.

CONCLUDING REMARKS

- 1.21 I am firmly of the view that the proposed development complies with the provisions of the Development Plan and as a consequence Paragraph 11 (c) of the Framework applies. For decision taking this means approving development proposals that accord with an up-to-date Development Plan without delay.
- 1.22 Applying the statutory tests of Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that:

"Where in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise".

- 1.23 I have already noted that the scheme is compliant with the Development Plan and I have identified no material considerations which indicate that planning permission ought to be refused. Rather



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there are a host of positive benefits identified in my evidence which support the grant of planning permission.

1.24 In light of the foregoing the Inspector is respectfully requested to allow the appeal and grant conditional full planning permission for the proposed development.