

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**

STATEMENT OF COMMON GROUND

**BETWEEN
WAIN HOMES (NORTH WEST) LIMITED
&
HIGH PEAK BOROUGH COUNCIL**

**Appeal By Wain Homes (North West) Limited
Land south of Dinting Vale, Dinting, Glossop, Derbyshire
Planning Statement of Common Ground Between Wain Homes (North West) Limited
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1. INTRODUCTION

SCOPE

- 1.1 This Statement of Common Ground (SoCG) accompanies an appeal made by Wain Homes (North West) Limited (hereafter referred to as the Appellant) against the refusal of full planning permission by High Peak Borough Council (hereafter referred to as HPBC or the Council) for a development of 92 dwellings, relating to land at Dinting Vale, Dinting, Glossop (hereafter referred to as the appeal site).

BACKGROUND - AGREED FACTS

- 1.2 The appeal site forms part of land that is allocated for the development of 130 dwellings in the Council's Local Plan (Policy DS 4 refers) that was adopted in April 2016. As a consequence, the principle of developing the appeal site had been firmly established for over 8 years. The Council reviewed the Local Plan in June 2022 and the report presented to the Council's Executive on 23 June 2022 (**CD4.12**) concluded that part of the Local Plan was out-of-date (Policies S3 (Strategic Housing Development), S4 (Maintaining & Enhancing an Economic Base) and Policy H4 (Affordable Housing) in respect of developments of less than 10 units). Importantly, Policy DS 4 was not deemed to be out of date, and the requirements of Policy H4 remain material to the appeal.
- 1.3 The Appellant signed a Planning Performance Agreement (PPA) with HPBC on 2 November 2022 following pre-application discussions on the scheme. The planning application was validated on 3 November 2022 and given the planning application reference number HPK/2022/0456. The application was reported to the Council's Development Control Committee on 23 October 2023 (**CD 3.1 and 3.3**) with an Officer recommendation for approval. Notwithstanding the recommendation Members voted to refuse the application contrary to the professional advice of Officers.
- 1.4 The Decision Notice was issued on 27 October 2023 (**CD3.4** in the bundle of documents submitted with the appeal), which confirmed that the application was refused for the following 4 reasons:

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"1. The A57 Dinting Vale is already designated as an Air Quality Management Area (AQMA) and there is potential for the level of air pollution in the area to be further increased due to increased traffic levels, leading to concerns around the impact on health of people, in particular children, in the area. Whilst it is acknowledged that the developer proposes Section 106 Contributions towards Air Quality Monitoring in the area and sustainable travel feasibility studies, this will not mitigate the actual impact of the development. As such the proposal is contrary to Policy EQ10 of the adopted High Peak Local Plan 2016 and the NPPF.

2. The position of the proposed highway access road from the A57, part of which lies outside the Local Plan allocation, in close proximity to the school, would result in an unacceptable risk to road safety. The proposal therefore fails to achieve safe and suitable access contrary to Policy CF6 of the adopted High Peak Local Plan 2016 and the NPPF.

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.

4. There is potential for the public right of way onto Simmondley Lane to be used as a "rat-run" for vehicle access, and the absence of any detailed and workable proposals for preventative measures within the application, which would also allow the access rights for existing residents to be maintained, the proposal is considered to pose a risk to the safety of users of the right of way and a highway safety risk at the junction with Simmondley Lane contrary to Policies EQ6 and CF6 of the adopted High Peak Local Plan 2016 and the NPPF."

Following a meeting of the High Peak Development Control Committee (22 April 2024), the Committee resolved not to pursue a defence in relation to reasons for refusal 1, 2 and 4, to offer 'no evidence' in relation to those reasons at the forthcoming public inquiry and instead put forward conditions and/or planning obligations where necessary to mitigate the effect of the proposed development. The Council's Statement of Case (SoC) confirms that the above-mentioned RfR are withdrawn, and this was further confirmed at the Case Management Conference (CMC) on 10 May 2024 and is recorded in the Inspector's summary note (Paragraph 7 refers) dated 13 May 2024.

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- 1.5 Further by email dated 7 May 2024 it is agreed that the RfR3 relating to biodiversity is no longer in dispute as the Council is satisfied that the Appellant is proposing full mitigation. This was further confirmed at the CMC and is recorded in the Inspector's summary note (Paragraph 7 refers).
- 1.6 As of 11th June 2024, the Council are no longer to offer evidence in relation to RfR 3. Emails to PINS and the Appellant on 11th June 2024 confirm that having considered the Appellant's proofs of evidence and having taken advice from the Council's viability consultants, received on 6 June 2024, the Council has concluded the appeal cannot be resisted.

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2. THE PROPOSED DEVELOPMENT

DESCRIPTION

2.1 It is agreed that the description of development for the full planning application is as follows:

"Proposed residential development comprising 92 dwellings including areas of public open space, landscaping and associated works."

2.2 The Inspector is requested to determine the appeal on the basis of the description of development given above.

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3. PLANNING APPLICATION & APPEAL DOCUMENTS

PLANS AND DRAWINGS

- 3.1 An indexed bundle of documents was submitted with the appeal. At the CMC the Inspector asked that the parties produce a composite list of Core Documents and that only those plans and drawings which formed the basis of the determination be included, i.e. superseded documents do not need to be identified in Core Documents. The relevant plans, drawings and documents can be found in CD1 and CD2 and form the basis of a condition of approved documents should the appeal be allowed.
- 3.2 The Inspector will note that the Decision Notice does not refer to the Location Plan - WH_DV_LP_01 Rev B (CD2.103) which was submitted with the application. The Appellant wrote to Mr Ben Haywood, Head of Development Services at HPBC on 31 October 2023 and again on 4 December 2023 asking for the Location Plan to be included in a corrected Decision Notice. The Council now agrees that the above-mentioned location plan should be listed as an approved document should the appeal be allowed.

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4. THE APPEAL SITE & SURROUNDING AREA

THE APPEAL SITE LOCATION

- 4.1 The appeal site is located to the south of Dinting Vale (A57) approximately 1.6km to the west of Glossop town centre.
- 4.2 The Grid Reference of the site is:
- Easting: 401928.
 - Northing: 394209

APPEAL SITE DESCRIPTION

- 4.3 The appeal site extends to 4.7 hectares. It is currently accessed from Adderley Place, which is unadopted road and Public Right of Way (PROW) which comes off Simmondley Lane and traverses the appeal site in roughly an east west direction. Adderley Place serves a Scout Centre and a limited number of houses.
- 4.4 The northern section of the appeal site (north of Adderley Place) is populated with trees and shrubs. The topography within this area is sloping with ground levels falling northwards towards Dinting Vale (A57).
- 4.5 The southern portion of the appeal site (south of Adderley Place) is generally open grassland and trees where the levels slope from west to east. The land does include some trees within the appeal site but generally speaking, these are located around the periphery and along the access track.

SURROUNDING AREA

- 4.6 Immediately to the north and west of the appeal site are existing residential dwellings which are accessed from Dinting Vale (A57) and Adderley Place respectively. Dinting Scout hut is also served off Adderley Place.
- 4.7 Dinting Church of England Primary School and Holy Trinity Church are located on the northern side of Dinting Vale (A57) with the buildings lying to the north east of the proposed access point to the development. It should also be noted that in the vicinity of the school and church is a traffic light controlled pedestrian crossing.

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- 4.8 A further woodland area is located to the east of the appeal site and within this is a stream, beyond this is Dinting Cricket Club.
- 4.9 Further housing is located beyond the appeal site to the south.
- 4.10 To the west of the appeal site is the Gamesley Sidings woodland area and beyond this the Glossop to Manchester railway line.

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5. STATUTORY AND OTHER DESIGNATIONS

- 5.1 It is agreed that the appeal site is not affected by any statutory or ecological designations.
- 5.2 It is agreed that the Council made a Tree Preservation Order on 1 February 2024 and that this came into force on a temporary basis and will remain in force for 6 months. During that time the Council will decide whether to confirm the Order, making it permanent.
- 5.3 The Notice to the Order specified that objections to it were to be made to the Council, in writing by 4 pm on 5 March 2024. In response the appellant submitted an objection, which was prepared by its Arboriculturist, on the grounds that (1) the making of the Order is not expedient; (2) the protection of some trees included in the Order is not in the interests of amenity; and (3) the type of Order is inappropriate and does not follow government guidance.
- 5.4 The plan that forms the basis of the temporary Order is broadly the same as the location plan (CD2.103) that accompanies the appeal.
- 5.5 The following documents are enclosed with the appeal papers:
- **CD6.8** - Letter from HPBC to the Appellant dated 1 February 2024 relating to HPBC Tree Preservation (Land at Dinting Vale, Dinting, Glossop, Derbyshire) Order 2024 No 314.
 - **CD6.9** - Notice of the Temporary Tree Preservation Order dated 1 February 2024 & The Temporary Tree Preservation Order dated 1 February 2024.
 - **CD6.11** - Objection to the Order prepared by the Appellant's Arboriculturist dated 4 March 2024.

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6. PLANNING HISTORY

- 6.1 It is agreed that there is no site-specific planning application or planning appeal history that is relevant to consideration of the appeal proposals.

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7. THE DEVELOPMENT PLAN

THE DEVELOPMENT PLAN

- 7.1 The Development Plan comprises the High Peak Local Plan which was adopted on 14 April 2016 .
- 7.2 Having regard to the adopted Proposals Map (extract at **CD4.11**) it is agreed that the appeal site is within the built-up area of Glossop and the appeal site makes up approximately two thirds of an allocated housing site where Policy DS 4 (Adderley Place, Glossop) applies
- 7.3 Subject to compliance with the requirements of Policies H3, H4, DS4 and EQ9 together with the other policies of the Local Plan and relevant material considerations the principle of development is acceptable.
- 7.4 It is agreed that the appeal site is not located within the Green Belt or open countryside and nor is it subject to any other allocations/designations in the Development Plan.
- 7.5 It is agreed that the most important policies for determining the appeal are those set out below:
- Policy S 1 – Sustainable development principles.
 - Policy S 1a – Presumption in favour of sustainable development.
 - Policy S 2 – Settlement hierarchy. This policy states that development will be directed towards the most sustainable locations in accordance with the settlement hierarchy. The policy defines Glossop as a Market Town which is an area where there will be a focus for housing amongst other things.
 - Policy S3 - Strategic housing development. This policy sets out the supply and distribution of dwellings and requires provision to be made for at least 7,000 dwellings over the Plan period 2011 - 2031 at an overall annual average rate of 350 dwellings per annum.
 - Policy S 5 – Glossopdale Sub-area Strategy. This policy states that the Council will seek to promote the sustainable growth of Glossopdale whilst promoting and maintaining the distinct identity of its settlements, provide an increasing range of employment opportunities, promoting the growth of a sustainable tourist economy and meeting the housing needs of the local community.
 - Policy EQ 1 – Climate change.

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- Policy EQ 2 – Landscape character.
- Policy EQ 5 – Biodiversity.
- Policy EQ 6 – Design and place making.
- Policy EQ 7 – Built and historic environment.
- Policy EQ 8 – Green Infrastructure.
- Policy EQ 9 – Trees, woodland and hedgerows.
- Policy EQ 10 – Pollution control and unstable land.
- Policy EQ 11 – Flood risk management.
- Policy H 1 – Location of housing development.
- Policy H 2 – Housing allocations.
- Policy DS 4 – Adderley Place, Glossop.
- Policy H 3 – New housing development.
- Policy H 4 – Affordable housing.
- Policy CF 3 – Local infrastructure provision.
- Policy CF 4 – Open space, sports and recreation facilities.
- Policy CF 5 – Provision and retention of local community services and facilities.
- Policy CF 6 – Accessibility by public transport.
- Policy CF 7 – Planning obligations and community infrastructure levy.

HIGH PEAK LOCAL PLAN REVIEW

7.6 The Council reviewed the Local Plan in June 2022 and the report presented to the Council's Executive on 23 June 2022 (**CD4.12**) concluded that part of the Local Plan was out-of-date (Policies S3 (Strategic Housing Development), S4 (Maintaining & Enhancing An Economic Base) and Policy H4 (Affordable Housing) in respect of developments of less than 10 units). However, Policy DS 4 relating

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to the allocation of the appeal site was not deemed to be out of date , and the requirements of Policy H4 remain relevant for the appeal proposal.

7.7

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8. OTHER MATERIAL CONSIDERATIONS

NATIONAL PLANNING POLICY AND GUIDANCE

8.1 The following national policy and guidance documents are relevant to the appeal:

- National Planning Policy Framework (19 December 2023).
- National Planning Practice Guidance (6 March 2014 and subsequent amendments).
- National Design Guide (January 2021).

SUPPLEMENTARY PLANNING DOCUMENTS (SPD's)

8.2 The following SPDs are acknowledged

- Developer Contributions SPD (October 2023)
- High Peak Design Guide SPD (Feb 2018)
- Glossop Design and Place Making Strategy (Dec 2011)
- Housing Needs in the High Peak SPD (Nov 2007)
- Landscape Character SPD (March 2006)
- Adopted Residential Design SPD (Dec 2005)
- Designing out Crime SPD (June 2005)

LOCAL PLAN REVIEW

8.3 The Council has started a review of its Local Plan and consulted on an "Early Engagement Document" in January 2023 (**CD5.1**). According to the Council's Local Development Scheme 2022, a draft Plan is expected to be published in 2025.

8.4 The Council has also published its Statement of Five-Year Housing Land Supply (as at 1st April 2023) in November 2023 (**CD 6.3**). The document demonstrates that the Council has a 6.4 years supply including a contribution of 39 dwellings from the appeal site.

8.5 It is agreed that the 1 April 2024 base date has now been passed and hence CD6.3 does not now represent the position as of the 2024/2025 monitoring year as a matter of fact. It is agreed that any

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up-date to the position would need to take into account of both dwellings delivered in the period 1 April 2023 - 31 March 2024 and sites which are now deemed to be deliverable. That information will not be published until September 2024 and is not available to the Inquiry.

- 8.6 Given the Council's Five-Year Housing Land Supply position and up to date Local Plan, Paragraph 11 (d) of the Framework is not engaged and the appeal should proceed having regard to Paragraph 11c and the statutory test at Section 38(6) of the Planning and Compulsory Purchase Act.

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9. PRINCIPLE OF DEVELOPMENT

- 9.1 Subject to compliance with the requirements of Policies H3, H4, DS4 and EQ9 together with the other policies of the Local Plan and relevant material considerations the principle of development is acceptable.

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10. HOUSING MIX

10.1 It is agreed that the proposed mix of dwellings shown below in Table 1 is broadly acceptable as set out in the officer's report to Development Control Committee on the 23rd October 2023 (CD3.1) at para 7.3.11 and 7.3.12 and the Council does not allege any conflict with any policy or guidance contained in the Development Plan or any other material considerations with regards to housing mix.

Table 1 - Housing Mix

Dwelling Size	Total
1 bedroom	6 (7%)
2 bedroom	21 (23%)
3 bedroom	50 (54%)
4 bedroom	15 (16%)
Total	92

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11. LAYOUT AND DESIGN MATTERS

- 11.1 It is agreed that the proposed layout and design of the scheme is acceptable and overall there is no conflict with any policy or guidance contained in the Development Plan or any other material considerations taken as a whole.

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12. RESIDENTIAL AMENITY

- 12.1 It is agreed that the proposed interface distances between new dwellings, and between new dwellings and existing dwellings are acceptable taking into account the positioning of dwellings, proposed boundary treatments and planting.
- 12.2 It is agreed that, subject to condition, there would be no adverse impact on residential amenity and there is no conflict with any policy or guidance contained in the Development Plan or any other material considerations with regards to neighbour amenity.

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13. OPEN SPACE

- 13.1 It is agreed that the proposed amount of public open space and the design of the children's play area are acceptable and there is no conflict with any policy or guidance contained in the Development Plan or any other material considerations with regards to the provision of open space.

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14. LANDSCAPE VISUAL IMPACT

- 14.1 It is agreed that the landscape and visual impact of the scheme has been appropriately assessed. It is further agreed that the appeal scheme is acceptable with regard to landscape and visual impact considerations and there is no conflict with any policy or guidance contained in the Development Plan or any other material considerations.

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15. HIGHWAY ACCESS TO THE REMAINDER OF THE ALLOCATION

- 15.1 It is agreed that a Section 106 Agreement could be used to facilitate access to the remainder of the land allocated under Policy DS4.

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16. PUBLIC RIGHT OF WAY

- 16.1 In response to the fourth reason for refusal the Appellant has produced a scheme to discourage new residents from using Adderley Place / PROW50 for vehicular access (hereafter referred to as the Adderley Place Vehicle Discouragement Scheme). The scheme is enclosed at **Appendix 1**. The Council at Development Control Committee on the 22nd April 2024 and the Local Highway Authority have considered the Adderley Place Vehicle Discouragement Scheme and it is agreed that subject to suitable conditions it is an acceptable scheme to discourage new residents from using Adderley Place / PROW 50 for vehicular access. Accordingly subject to the imposition of the following conditions the Council is satisfied with the Adderley Place Vehicle Discouragement Scheme:

"The Adderley Place Vehicle Discouragement Scheme shall be implemented in accordance with the details shown in the Technical Note prepared by SCP and referenced CT/210087/TN05 and shall be installed prior to the first occupation of any dwelling and it shall thereafter be retained in perpetuity", and

" No dwelling shall be occupied until a detailed scheme for the Adderley Place Vehicle Discouragement Scheme (to be in general accordance with plan SCP-210087-0000-001 Rev A) has been submitted to and agreed with the local planning authority. The detailed scheme should include details of signage (to be in general accordance with plan SCP-210087-0000-001 Rev A), materials to be used for the surfacing at the junction of FP 50 and the proposed access road, and the height and materials to be used for the proposed bollards."

- 16.2 Subject to those agreed conditions therefore the Council does not intend to submit any further evidence in relation to this reason for refusal and the RfR is withdrawn.

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17. ACCESSIBILITY, HIGHWAYS & TRANSPORTATION

- 17.1 The appeal site is situated within an accessible location in Dinting Vale approximately 1.6 km away from the town centre of Glossop where there are a variety of shops and services to meet-day-to-day needs.
- 17.2 It is agreed that there are a significant number of local facilities within close proximity of the appeal site. It is agreed that the appeal site is locationally sustainable.
- 17.3 It is agreed that Adderley Place/Adderley Road which is a PROW can be used by pedestrians to access Glossop town centre via Simmondley Lane.
- 17.4 It is agreed that subject to suitable and appropriate conditions the proposed vehicular means of access to the appeal site is in accordance with the site-specific Policy DS4 noting that the supporting text to the policy states that access is to be taken from the A57.
- 17.5 It is correct to note that part of the proposed access falls outside the land allocated for housing as identified on the Council's Interactive Local Plan Map. However, it is agreed that this part of the access is within the Glossop Development Boundary and as a matter of principle does not represent a sustainable objection to the development and it has no implications on the safety of the access.
- 17.6 Following a meeting of the High Peak Development Control Committee (22 April 2024), it was agreed that subject to suitable and appropriate conditions and planning obligations the Council will not be defending Refusal Reason 2 which is withdrawn.
- 17.7 Having regard to Paragraph 7.10.7 of the Committee Report it is agreed that subject to suitable and appropriate conditions there are no objections from DCC Highways in relation to highway safety of the proposed access arrangements.
- 17.8 Highways related conditions are set out in a separate statement containing the draft conditions.
- 17.9 The agreed planning obligations in relation to highways are:
- sustainable travel contribution (south-west link) £61,920¹
 - travel plan monitoring contribution £6,325

¹ During the application the Appellant noted in **CD2.28** the proposed contribution was not CIL compliant. The Appellant has agreed to include the contribution in the Section 106 Agreement and acknowledges that if delivered it would be a benefit delivered by the scheme but remains concerned as to its CIL compliance.

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- securing access to the remainder of the land allocated for development under Policy DS 4

17.10 Construction of the proposed site access junction on Dinting Vale (A57) will necessitate a Section 278 Agreement (under the Highways Act 1980). This agreement will be between the Appellants and the LHA. For the avoidance of doubt High Peak Borough Council will not be a party to this agreement.

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18. VIABILITY

- 18.1 It is agreed that the application was accompanied by a Viability Assessment (**CD1.6**) and a Non-Technical Summary of the Viability Assessment (**CD1.8**). Following scheme amendments and a reduction in dwelling numbers a Viability Assessment Addendum was submitted to the Council on 23 June 2023 (**CD2.19**).
- 18.2 The Appellant's viability evidence was independently assessed by consultants on behalf of the Council; namely, Bruton Knowles.
- 18.3 The appeal site is part of a larger allocated site that was deemed to be viable when it was assessed for inclusion in the adopted High Peak Local Plan 2016.
- 18.4 Bruton Knowles on behalf of the Council concluded that £793,000 was available for Planning Obligation contribution purposes which was reported to the Development Control Committee in the Officer's report (Sections 7.20.4, 8.1.4).
- 18.5 Whilst the Appellant's viability consultant disagreed with the position advanced by Bruton Knowles in order to move the application forward in a positive manner and to try and secure a planning approval locally the Appellant reluctantly accepted the Council's position as set out in **CD2.73**. The appellant's views as to how they preferred the contribution to be applied was set out in the same document.
- 18.6 The appellant's proposed contributions are set out in paragraph 26 below.
- 18.7 Due to viability constraints the appellant makes nil contributions towards affordable housing provision.

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19. BIODIVERSITY

19.1 The appeal proposals are accompanied by various ecological assessments which contain appropriate assessments as follows:

- Ecological Appraisal (CD1.27).
- Bat Tree Climbing Report (CD1.36).
- Bat activity surveys (CD2.1).
- GCN eDNA letter report (CD1.39).
- Invasive non-native species report (CD1.37).
- Invertebrate Survey Report (CD2.23).
- Breeding bird survey report (CD2.14).
- Reptile Report (CD2.15).
- Badger Report (CD1.38).
- Biodiversity Net Gain Assessment (Appendix 2 of the Appellant's Statement of Case).
- Biodiversity Net Gain Metric (CD6.10).
- Biodiversity Net Gain Strategy & 30 Year Management Plan (Appendix 1 of the Appellant's Statement of Case).
- Local Wildlife Site Criteria Letter Report (CD2.24).
- NVC Survey Report Dinting Vale (CD2.25).

19.2 The site does not lie within any statutory or non-statutory designated wildlife site of international, national, or local recognition, although it lies immediately to the west of Gamesley Sidings Local Wildlife Site and must therefore be considered in that context.

19.3 It is agreed that in relation to Biodiversity Net Gain (BNG), the adopted Local Plan position is contained in Policy EQ 5 which *inter alia* seeks to ensure as a minimum there is no net loss and wherever possible net gain for biodiversity.

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- 19.4 Other Local Plan policy considerations include Policy DS4 (Adderley Place) which requires amongst other requirements a comprehensive landscaping plan to include retention of mature trees and a wildlife survey undertaken following consultation with Derbyshire Wildlife Trust.
- 19.5 It is further agreed that this is a scheme that is not required to deliver 10% BNG because the application which is now the subject of the appeal was submitted before 10% BNG became mandatory in England.
- 19.6 It is agreed that discussions have taken place between the appellant's ecologist and DWT both during consideration of the application and prior to the appeal being submitted.
- 19.7 Having regard to the BNG Assessment (**Appendix 2 of the Appellant's Statement of Case**) and BNG Metric (**CD6.10**) it is agreed that there will be a BNG loss at the site post development.
- 19.8 Impacts to the site arising from the development will be partially mitigated on site through the adoption of a sensitive landscape design, a biodiversity net gain strategy & 30-year management plan, plus pre-construction inspections.
- 19.9 Off-site locations have been selected to complete the habitat mitigation package following adequate testing to provide bespoke compensation and improved net biodiversity following interventions.
- 19.10 The selected areas are located at Chinley High Peak and are in the ownership of the Appellant. The Chinley locations will undergo habitat interventions to form a mosaic of neutral grassland, scrub, swamp and woodland habitats. Bespoke compensation will comprise of the translocation of lowland dry acid grassland and purple moor-grass and rush pasture from the development site.
- 19.11 With the inclusion of offsite provisions, the collective scheme will return a net loss to biodiversity with respect to habitat units.
- 19.12 However, Biodiversity Net Gain (BNG) permits purchase of habitat units to address a BNG deficit. In that respect 18.94 units of Tier 1 Medium distinctiveness habitats are to be purchased to satisfy BNG Trading Rules.
- 19.13 Whilst this is not a scheme that is required to deliver 10% BNG under the provisions of the Environment Act (because the application which is now the subject of the appeal was submitted before 10% BNG became mandatory in England), having satisfied the BNG Trading Rules with the purchase of 18.94 Tier A1 habitat units, the actual outcome is that this scheme would deliver circa 11% increase in BNG.

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- ~~19.14~~ It is agreed that a mixture of conditions and the Planning Obligation deal with biodiversity mitigation measures.
- 19.15 It is agreed that the contribution being made to the Council for off-site tree planting to mitigate the loss of trees on the site has not been factored into the BNG calculations. The Council does not accept this is a biodiversity benefit of the scheme.
- 19.16 It is agreed that on site interventions, bespoke mitigation at Chinley and the purchase of biodiversity credits would mean that more than adequate mitigation would be secured and there would be no conflict with the biodiversity elements of Policy DS 4 or Policy EQ 5 as any harm would be mitigated for.
- 19.17 In light of the foregoing and subject to conditions and the Planning Obligation for the appeal making provision for the full suite of biodiversity mitigation measures set out herein it is agreed that there are no biodiversity or ecological reasons to withhold planning permission and the biodiversity element of RfR3 is withdrawn by the Council.

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20. ARBORICULTURE

- 20.1 It is agreed that the appeal proposals are accompanied by an Arboricultural Impact Assessment (Version 5) (CD2.65) which contains an appropriate assessment fit for purpose.
- 20.2 It is agreed that the Arboricultural Impact Assessment was improved during the application process
- 20.3 It is agreed that the tree removal proposed by the Arboricultural Impact Assessment (CD2.65) is a true reflection of what would be necessary to deliver the proposed layout, and that trees that are shown as retained could be retained, subject to the provision of tree protection measures in accordance with paragraphs 4.27 to 4.37 and the Arboricultural Method Statement Heads of Terms Plan at Drawing 3 (D9131.003 Rev C) within the Arboricultural Impact Assessment.
- 20.4 It is agreed that the potential delivery of the appeal site would result in tree loss to enable the site to be accessed from the A57.

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21. AFFORDABLE HOUSING

21.1 It is agreed that the Council's affordable housing policy is contained in Policy H4 (part of which is out of date as acknowledged by the Council) which states *inter alia* that:

"Where the provision of affordable houses proposed is below the requirements set out above, the Council will require applicants to provide evidence by way of a financial appraisal to justify a reduced provision".

21.2 It is agreed that a reduced affordable provision (below the 30% requirement in this case) could constitute a nil contribution where financially justified in accordance with Policy H 4.

21.3 It is agreed that Policy DS4 requires provision of 30% affordable housing but that this policy is not to be considered in isolation as noted in the first paragraph of Policy DS 4 which states that:
"Development will be subject to compliance with other relevant Local Plan policies."

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22. FLOOD RISK & DRAINAGE

- 22.1 It is agreed that the proposed drainage strategy is acceptable, there are no issues with regards to flood risk which cannot be dealt with by way of standard planning conditions and there is no conflict with any policy or guidance contained in the Development Plan or any other material considerations in relation to flood risk and drainage.

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23. ARCHAEOLOGY

- 23.1 It is agreed that there are no outstanding issues with regard to archaeology subject to further investigations which can be appropriately controlled by condition.

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24. AIR QUALITY

- 24.1 It is agreed that the proposed development is not located within a statutorily designated AQMA. However, Dinting Vale (A57), the road adjacent to the appeal site, was declared an AQMA in 2019 in respect of annual mean concentrations of NO₂.
- 24.2 An Air Quality Assessment (AQA) was produced in support of the application. The AQA concluded that based on annual mean concentrations, at any receptors without or with the development in place, impacts were predicted to be negligible at all receptors and the overall impacts were predicted to be not significant.
- 24.3 It is agreed that the Council's Environmental Health Officer (EHO) noted there would be a predicted increase at monitoring points within the declared Dinting Vale AQMA as a result of the proposed development. However subject to the contribution as set out below the EHO did not object to the scheme as it was agreed the overall impacts were predicted not to be significant.
- 24.4 During consideration of the application it was suggested by the Council's EHO that the appellant make a financial contribution of £150 per dwelling to validate the results of the model used by the Appellant's consultant and to look at further interventions in the area such as sustainable travel. The Appellant has agreed to make provision within the Section 106 Agreement for such sums to be paid to the Council.
- 24.5 It is agreed that the scheme has embodied good practice with regard to air quality in the form of the submitted Travel Plan (Document 243) and has provided for electric vehicle charging and cycle parking. The Section 106 Agreement obligation will secure a contribution to monitor the efficacy of the agreed travel plan.
- 24.6 A resolution of the Council's Development Control Committee on the 22nd April 2024 determined that subject to those conditions and a Section 106 Agreement contribution the Council will offer no evidence at Inquiry in relation to Refusal Reason 1 and this reason for refusal is withdrawn.

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25. CONDITIONS

25.1 The parties are working on a separate SoCG with regard to conditions.

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26. PLANNING OBLIGATION

- 26.1 The parties are working to complete a bi-lateral planning obligation.
- 26.2 The planning obligation will deal with the matters of biodiversity, trees, sustainable travel, libraries, health, air quality, management of highways and public open space, travel plan monitoring and Section 106 Agreement monitoring having regards to the agreed funds available (£793,000) together with additional funds made available by the Appellant to deal with the increased costs related to biodiversity. The position is summarised in Table 2.

Table 2 - Planning Obligations Overview

Conditions/Section 106 Agreement Matters	Costs As Of 28.02.24	Notes
Biodiversity (bespoke mitigation at Chinley)	£175,335	See fully costed scheme appended herewith.
Biodiversity (off site biodiversity credits)	£530,320	18.94 off site units x Tier 1 Grassland / £28K per unit
Trees	£92,240	£72,400 planting & £19,840 maintenance
Sustainable Travel Contribution	£61,920	Appellant to pay in full.
Libraries	£6,460	Officers suggested £4k. Appellant to pay in full.
Health	£82,800	Officers suggested £40k. Appellant to pay in full.
Air Quality	£13,800	Officers suggested £6k. Appellant to pay in full.
Affordable Housing	£0	Officers suggested £193k off site contribution equivalent to a 3 bed house for rent.
Travel Plan Monitoring	£6,325	Appellant to pay in full.
LPA Monitoring	£5,000	Appellant to pay in full.
Total	£974,200	To be met by the Appellant through a combination of conditions and Section 106 Agreement
Position Agreed At Planning Application Stage	£793,000	
Additional Costs Being Met By The Appellant Since Application Stage	£181,200	

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27. DECLARATION

27.1 This SoCG has been agreed between the Appellants and HPBC. Those signing on behalf of the parties do so with the authority of Appellant and HPBC.

Signed on behalf of Wain Homes (North West) Limited:



Print Name: Niall Mellan from Hourigan Planning (agent)

Date: 12 June 2024

Signed on behalf of High Peak Borough Council:



Print Name:Bruce O'Brien.....

Date:12.06.2024.....