

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**

DRAFT CONDITIONS

LPA Ref: HPK/2016/0516

Appeal Ref: APP/H1033/W/18/3214312

The following conditions are agreed by the parties save as indicated below.

Notwithstanding the agreement given below by the Appellant (and recognising that the number of conditions has reduced from 65 (as proposed at the Development Control Committee stage) to 46 the Appellant is concerned about overall number of conditions and levels of detail sought by the Council and the extent to which conditions will unnecessarily hinder the timely implementation of the development and the delivery of the scheme. The Appellant acknowledges that the Inspector will lead a round table discussion regarding conditions where matters will be explored further.

In accordance with section 100ZA(5) of the TCPA 1990 the signature of the Appellant at the end of this document constitutes the written agreement of the appellant to any agreed pre-commencement conditions set out below should they be deemed necessary by the Inspector.

CONDITIONS

TIME & STANDARD

1. Condition: The development hereby permitted must be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 Town & Country Planning Act 1990.

APPROVED DRAWINGS & DOCUMENTS

2. Condition: This decision relates only to drawings numbered:

Document

CD2.19 Apartment Bin Store Plans Drwg No. WH/DV/HT/BS/01.

CD2.21 Railing Detail.

CD2.30 Trim Trail Area 102 Rev B.

CD2.31 BNG Strategy and 30 Year Management Plan.

CD2.39. Cycle Store Details **WH_DV_CS02**.

CD2.40 Laurel House Type Elevations and Floor Plans LAU.3B843.CL.P.S.01.

CD2.41 Peppercorn House Type Elevations and Floor Plans PEP.3B1010.CL.P.S.01.

CD2.42 Satinash House Type Elevations and Floor Plans SAT.NM.P.S.01.

CD2.43 Willow House Type Elevations WIL.NM.P.F.02.

CD2.44 Willow House Type Floor Plans WIL.NM.P.F.01.

CD2.45 Willow House Type (Plot 1) Elevations WIL.NM.P.F.02.

CD2.46 Willow House Type (Plot 1) Floor Plans WIL.NM.P.F.01.

CD2.47 Acacia House Type Elevations and Floor Plans ACA.3B939SA.CL.P.S.01.

CD2.48 Foxglove House Type Elevations FOX.NM.P.F.02.

CD2.49 Foxglove House Type Floor Plans FOX.NM.P.F.01.

CD2.50 Juniper House Type Elevations JUN.NM.P.S.01.

CD2.51 Juniper House Type Floor Plans JUN.NM.P.F.01.

CD2.52 Witchazel House Type Elevations WIT.NM.P.F.02.

CD2.53 Witchazel Houe Type Floor Plans WIT.NM.P.F.01.

CD2.54 Double Garage Plans **LDG-CE-1.0-S Rev B.**

CD2.55 Paired Garage **LPG-CE-1.0-S Rev A.**

CD2.56 Reversed Paired Garage **RPG-CE-1.0-S.**

CD2.57 Single Garage Plans **LSG-CE-1.4-S Rev A.**

CD2.59 External Works Sheet 1 WAI25-XX-BET-ZZ-XX-DR-C-3001- P02.

CD2.60 External Works Sheet 2 WAI25-XX-BET-ZZ-XX-DR-C-3002- P02.

CD2.61 External Works Sheet 3 WAI25-XX-BET-ZZ-XX-DR-C-3003- P02.

CD2.62 External Works Sheet 4 WAI25-XX-BET-ZZ-XX-DR-C-3004- P02.

CD2.63 External Works Sheet 5 WAI25-XX-BET-ZZ-XX-DR-C-3005- P02.

CD2.64 Bat and Bird Box Location **Rev A.**

CD2.67 Road 1 and Cyclepath Longitudinal Section **WAI25-XX-BET-XX-XX-DR C1010-P01**

CD2.81 Chinley Apartments Floor Plans WH/DV/CHA/PP/01 Rev A.

CD2.82 Chinley Apartments Elevations WH/DV/CHA/PE/01 Rev A.

CD2.85 Colour Site Layout - **WH_DV_CSL_01 rev M.**

CD2.86 Proposed Site Layout - **WH_DV_PSL01 rev N.**

CD2.88 Adoptable Highways Plan - **WH_DV_AHP_01 rev K.**

CD2.89 Boundary Treatment Details - **WH_DV_BT D_01 rev C.**

CD2.90 Boundary Treatment Plan - **WH_DV_BTP_01 rev N.**

CD2.91 Cycle Storage Plan - **WH_DV_CS_01 rev I.**

CD2.93 Electric Vehicle Charging Plan - **WH_DV_EVC_01 rev K.**

CD2.94 Hardstanding Plan - WH_DV_HP_01 rev K.
CD2.95 Interface Distances Plan - WH_DV_IDP_01 rev I.
CD2.96 Materials Plan - WH_DV_MP_01 rev L.
CD2.97 Net Developable Area - WH_DV_NDA_01 rev J.
CD2.98 Storey Heights Plan - WH_DV_SHP_01 rev K.
CD2.99 Site Sections - WH_DV_SS_01 rev F.
CD2.100 Street Scenes - WH_DVG_SS_02 rev D.
CD2.101 Street Scenes - WH_DVG_SS_03 rev A.
CD2.102 Waste Management Plan - WH_DV_WMP_01 rev K.
CD2.105 Landscape Masterplan 101 Rev L
CD2.106 Planting Plan (1 of 4) 201 Rev J
CD2.107 Planting Plan (2 of 4) 202 Rev J.
CD2.108 Planting Plan (3 of 4) 203 Rev J.
CD2.109 Planting Plan (4 of 4) 204 Rev J.

and the development shall not be carried out except in accordance with the drawings hereby approved.

Reason: For the avoidance of doubt and to ensure a satisfactory standard of design pursuant to the policies of the High Peak Local Plan listed.

Appellant Comment: Suggest the BNG Strategy (CD2.31) is deleted as it forms part of the Section 106 Agreement.

AMENITY & DESIGN

3.. Pre-Condition: Prior to the development of the first dwelling to be constructed beyond damp proof course level, detailed plans and samples shall be submitted to the Local Planning Authority for approval in writing. The submitted plans shall include the proposed materials for external walls, roofs, retaining walls, terraces, shared surfaces and protection for street trees including those in front gardens. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and to ensure a satisfactory development in accordance with Policies EQ6 and S1 of High Peak Local Plan, the Landscape Character SPD 2006, Residential Design Guide SPD 2005, and Peak Design Guide SPD 2018.

4. Pre-Occupation Condition: Before the first occupation of the dwellings hereby permitted the windows for bathrooms and toilets shall be fitted with obscured glazing to a minimum of Level 4 privacy rating and shall be retained thereafter.

Reason: To protect the privacy of adjoining occupiers and to accord with Policies EQ6 of the High Peak Local Plan, Residential Design Guide SPD 2005, and Peak Design Guide SPD 2018.

5. Condition: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revising, revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwellings hereby permitted (Plots 9-13, 27-31, 33, 38-45, 48, 52-60, 62, 65, 76, 81, and 86), including any additions or alterations to the roof, without express planning permission first being obtained from the Local Planning Authority.

Reason: To satisfactorily protect the residential amenities of nearby occupiers. To comply with Policies EQ6, Residential Design Guide SPD 2005, and Peak Design Guide SPD 2018, and the National Planning Policy Framework.

POLLUTION & CONTAMINATION:

6. Prior to occupation of the dwellings on plots number 1, and 3-8, a plan indicating the positions, design, materials, and type of acoustic boundary treatment to be erected shall be submitted and approved in writing by the Local Authority. The boundary treatment shall be carried out in accordance with the approved details and completed before the building(s) on plots 1, and 3-8 are occupied or in accordance with a timetable agreed in writing with the Local Planning Authority.

Reason: In the interest of visual amenity, residential amenity, and wildlife. Noise mitigation shall thereafter be maintained for the life of the development in order to protect the amenities of future occupiers and wildlife biodiversity, in accordance with Policy, H1, EQ10, and EQ5 of the Adopted High Peak Local Plan 2016 and the National Planning Policy Framework.

Appellant comment: The Appellant questions the necessity for this condition given boundary treatments are shown in CD2.89 & CD2.90 as approved documents.

Acoustic issues also only affect Plots 1 and 3 – 8 and the recommended fence (1.8 metres) as per the Noise Assessment (CD2.9) are to be installed to the rear of plots as per approved plans.

If an acoustic fence condition is deemed necessary by the Inspector the Appellant questions why this condition needs to be pre-commencement. Rather a condition, if necessary, requiring further details ought to be prior to occupation as the purpose of the condition is to protect amenity and such amenity will not need protecting until occupation occurs. Any condition would also need to clearly state that details are only required in respect of Plots 1 and 3 – 8.

LPA comment: The LPA seeks an informative at the end of the conditions list as follows: For reference, in line with comments from Env. Health, 'Acoustic fencing utilised for noise mitigation as set out in Condition 6 shall be of solid construction, with good quality timber (no warping, knot holes or damage) of at least 20mm thickness in all places, including where the boards overlap. Boards shall continue across the front of posts to minimise gaps and incorporate wide overlaps (minimum 25mm) to allow for timber expansion and contraction whilst minimising the possibility of gaps appearing over time. Fencing shall have a superficial mass not less than 10 kg/m².'

7. Pre-Condition: No topsoil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material should be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks in accordance with Policies EQ6 and EQ10 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

8. Pre-Condition: Prior to commencement of development, the Local Planning Authority should be provided with:

a) an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

a. a survey of the extent, scale and nature of contamination;

b. an assessment of the potential risks to:

i. human health,

ii. property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

iii. adjoining land,

- iv. groundwaters and surface waters,
 - v. ecological systems,
 - vi. archaeological sites and ancient monuments;
- c. an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's "Land Contamination Risk Management" (LCRM) guidance.

b) Submission of Remediation Scheme - A detailed Remediation Scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

c) Implementation of Approved Remediation Scheme - The approved Remediation Scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation and for formation of the highway access, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority before commencement of development other than that required to carry out remediation and for the formation of the access road.

d) Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 15a, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 15b, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 1c.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters (including the underlying Secondary A aquifer), property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks in accordance with Policies EQ6 and EQ10 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

DRAINAGE & FLOODING

9. Pre-Condition: No development shall take place until a detailed design and associated management and maintenance plan of the surface water drainage for the site, in accordance with the principles outlined within:

- a. LDE. (31/03/2023). Flood Risk Assessment, 680312-R1(02)-FRA Rev 02,
- b. Betts Associates. (07/07/2023). Section 104 Drainage Design, WAI25-XX-BET-ZZ-XX-DR-C-1001-P01,
- c. Betts Associates. (2023) Letter to Derbyshire LLFA, 7 August, including any subsequent amendments or updates to those documents as approved by the Flood Risk Management Team,
- d. And DEFRA's Non-statutory technical standards for sustainable drainage systems (March 2015),

have been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority, in advance of full planning consent being granted.

Appellant comment: The Appellant questions why this condition needs to be pre-commencement. The Appellant will need to build a haul road from the A57 to reach the residential platform of the site and it will need to deal with the translocation of grassland etc. All of this is before development levels are set. These matters could not be completed if this condition were imposed. The Appellant suggests that the a condition requiring the details of the drainage system be submitted to and agreed by the Council prior to their installation.

10 Pre-Condition: Prior to commencement of the development, the applicant shall submit for approval to the LPA details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be operating to the satisfaction of the LPA, before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development.

11. Pre-Condition: **Prior to the commencement of development**, details of a sustainable surface water drainage scheme (SuDS) and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:

- a. An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- b. A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- c. Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD; (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- d. Foul and surface water shall drain on separate systems. The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason: To promote sustainable development, secure proper drainage., to manage the risk of flooding and pollution, and in the interests of the amenities of the area, in accordance with Policy EQ10 of the High Peak Local Plan Policies 2016.

Appellant comment: A lot of this detail is already covered in Condition 9. Principles have already been agreed by the LLFA relating to surface water (see LFA summary comment on Page 13 of CD3.1) and the detailed elements of the surface water drainage scheme are covered by that condition. The surface water element of the condition is unnecessary. Furthermore with regard to foul drainage the Applicant has a right to connect to the public foul network. This matter is outside the control of the planning system and the subject of other legislation; the foul element of the condition is therefore unnecessary and not relevant to planning. There is no objection to an informative to note that surface water and foul water must be drained on separate systems. Notably United Utilities has not suggested a foul drainage condition (see summary response on Page 27 of CD3.1).

12 Pre-Condition: Prior to the first occupation of the development, a verification report carried out by a suitably qualified independent drainage engineer must be submitted to and approved by the Local Planning Authority. This must demonstrate that the drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls).

Reason: To ensure that the drainage system is constructed to the national non-statutory technical standards for sustainable drainage and CIRIA standards C753.

RAIL

13. Pre-Condition: Prior to the commencement of development, a method statement and risk assessment in relation to works that may impact upon the nearby railway must be submitted to the Local Planning Authority for approval in writing. The submitted documents shall include, inter alia, details of any piling or vibro-impact works on site.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway and to prevent any piling works and vibration from de-stabilising or impacting the railway.

Appellant comment: This condition is considered unnecessary as there is no development within 10m of the railway boundary.

14 Pre-Occupation Condition: Prior to occupation of the site the developer is to provide a suitable trespass proof fence adjacent to the boundary with the railway; the fencing details to be submitted to the Local Planning Authority for approval in writing.

Reason: To protect the adjacent railway from unauthorised access

Appellant comment: the Appellant questions whether this is necessary as no development is proposed near the railway and it is not required to make the development acceptable in planning terms.

CONSTRUCTION

15. Pre-Condition: Construction Management Plan/ CMP - No development shall take place, including any works of demolition, until a construction management plan / construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan / statement shall be adhered to throughout the construction period. The plan / statement shall provide for:

- i. construction and site clearance times

(Unless prior permission has been obtained in writing from the Local Planning Authority, all noise-generating activities except piling, shall be restricted to the following times of operations.

- 07:30 - 18:00 hours (Monday to Friday);
- 08:30 - 14:00 hours (Saturday)
- No working is permitted on Sundays or Bank Holidays.

In this condition, a noise-generating activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary

- ii. parking of vehicles for site operatives and visitors,
- iii. storage of plant and materials and site accommodation,
- iv. wheel washing facilities,
- v. best practice measures to control noise, vibration and the emission of dust and dirt during construction, as defined in Section 72 of the Control of Pollution Act 1974
- vi. routes for construction traffic,
- vii. method of prevention of mud / debris being carried onto the public highway/PRoW,
- viii. proposed temporary traffic management / restrictions,
- ix. arrangements for loading / unloading and turning vehicles within the site,
- x. roadside fencing / hoarding,
- xi. construction compound details, and
- xii. details of site registration under the Considerate Contractors scheme.
- xiii. construction & Demolition: Waste Disposal.

No development shall be commenced until an Estate Street Phasing and Completion Plan has been submitted to and approved in writing by the Local Planning Authority. The Estate Street Phasing and Completion Plan shall set out the development phases and the standards that estate streets serving each phase of the development will be completed.

Reason: To mitigate the impact of the construction traffic generated by the proposed development on the adjacent residential streets, and in the interests of highway safety and amenities of the area, in accordance with Policies CF4, EQ10 and EQ6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

16.. Condition: NSD02B - Noise Construction: Piling - No piling shall take place outside the hours 09:00 hours to 16:00 hours Mondays to Fridays.

Reason: In the interests of the amenity of residents of neighbouring residential properties in accordance with policy EQ6 of the High Peak Local Plan Policies 2016.

Appellant comment: This is a matter that could be listed under Condition 15.

17. Condition: NS02A - Construction & Demolition Works: Time Of Operations - Unless prior permission has been obtained in writing from the Local Planning Authority, all noise-generating activities shall be restricted to the following times of operations.

- 07:30 - 18:00 hours (Monday to Friday);
- 08:30 - 14:00 hours (Saturday)
- No working is permitted on Sundays or Bank Holidays.

In this condition, a noise-generating activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary

Reason: In the interests of the amenity of residents of neighbouring residential properties in accordance with policy EQ6 of the High Peak Local Plan Policies 2016.

Appellant comment: This is a matter dealt with in Condition 15 i, the condition is unnecessary.

HIGHWAYS

18. Pre-Condition: Unless otherwise approved in writing by the Local Planning Authority, the development shall not be commenced until, for the proposed new junction off the A57, a detailed scheme of highway improvement works for the provision of a footway/ verge margin and associated safe pedestrian crossing points, together with a programme for the implementation and completion of the works has been submitted to and approved in writing by the Local Planning Authority.

The new junction shall be provided with visibility sightlines extending from a point 2.4 metres from the carriageway edge, measured along the centreline of the access, for a distance of 43 metres to the right and left when measured along the nearside carriageway edge. The area in advance of the visibility sightlines being levelled, forming part of the new street constructed as footway and not forming part of any plot or other subdivision of the site.

No part of the development shall be brought into use until the required highway improvement works have been constructed in accordance with the approved details.

The proposed new site access road between Dinting Vale (A57) and the Public Right of Way is to be maintained to an adoptable standard (save for the gradient) for the lifetime of the duration of the occupation of the development.

Reason: In the interests of highway safety, in accordance with Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

19. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

Reason: In the interests of highway safety, in accordance with Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

20. Pre-Condition: With the exception of those works set out in the “commencement” definition in the Section 106 Agreement which for the purposes of the agreement do not constitute a material operation as defined by Section 56 of the 1990 Act, the development hereby approved shall not be commenced until the vehicular access off Dinting Vale in accordance with the approved drawings, has been created and completed up to at least base course level and is provided with the visibility splays in accordance with the approved plans. The access shall then be completed up to adoptable standard (other than gradient) before the first occupation of the dwellings, with the visibility splays being permanently kept free of all obstructions over 0.6m in height above carriageway level thereafter. The new road will then be maintained to this standard for the duration of the occupation of the approved development.

Reason: In the interests of highway safety, in accordance with Policies CF6, and EQ6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

21. Pre-Condition: With the exception of those works set out in the “commencement” definition in the Section 106 Agreement which for the purposes of the agreement do not constitute a material operation as defined by Section 56 of the 1990 Act, prior to the commencement of the development an independent Stage 2 Road Safety Audit must be submitted to and approved by the Local Planning Authority in accordance with GG119 - Road Safety Audits or any superseding regulations. The design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site. A programme for the delivery of that scheme and its interaction with delivery of any identified schemes under the section 38/278 Agreement must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site. Each item of the on/off-site highway works must be completed in accordance with the approved engineering details and programme prior to first occupation of the approved dwellings, or at another time to be agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with Policies CF6, and EQ6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

22 Pre-Condition: Notwithstanding any information submitted, no development shall take place, with the exception of those works set out in the “commencement” definition in the Section 106 Agreement which for the purposes of the agreement do not constitute a material operation as defined by Section 56 of the 1990 Act, until construction details of the turning head and footways (including layout, levels, gradients, surfacing and means of surface water drainage) have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

23. Pre-Condition: Prior to the commencement of the development details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

Reason: To ensure the development is provided with a satisfactory means of drainage and thereby preventing the risk of flooding in accordance with Policies S1, and EQ11 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

24. Pre-Condition: Prior to the commencement of development, a scheme providing the relocation of the bus stop on the southern side of the A57 (and any other associated highways works) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details / timescales and maintained for those purposes at all times thereafter.

Reason: In the interests of highway safety, in accordance with Policy DS4, S1, EQ6, and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

25. Pre-Condition: Except for investigative and translocation works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road, structure or apparatus which will support or lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority. The development must only be carried out in compliance with the approved engineering drawings.

Reason: To ensure that the adopted highways are kept free of deposited material from the ground works operations pursuant to Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework

Appellant comment: This condition really doesn't make any sense given the reason is to stop the deposit of material on the highway which according to DCC aren't going to be adopted. If it's the case the Council wants to stop the deposit of material on the highway then this is a construction management issue.

26. Pre-Occupation Condition: No dwelling hereby permitted shall be occupied until the new estate streets, footways, and cycleways between each respective plot and the existing public highways have been constructed in accordance with the details approved. All carriageways and footways shall be constructed up to and including base course surfacing to ensure that each dwelling prior to occupation has a properly consolidated and surfaced carriageway and footway, between the dwelling and the existing highway. Until final surfacing is completed, the footway base course shall be provided in a manner to avoid any upstands to gullies, covers, kerbs or other such obstructions within or abutting the footway. The carriageways, footways and footpaths in front of each dwelling shall be completed with final surface course no later than 15 months from the first phase of completed dwellings unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety, in accordance with Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

27. Pre-Occupation Condition: The dwellings, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking/ loading and unloading/ manoeuvring of residents/ visitors/ service and delivery vehicles, located, designed, laid out and constructed all as agreed in writing with the Local Planning Authority prior to implementation and maintained throughout the life of the development free from any impediment to its designated use. In the case where interim turning arrangements are constructed these must remain available until any permanent turning head is available, in accordance with the approved designs.

Reason: In the interests of highway safety, in accordance with Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

Appellant comment: This condition is unnecessary if the appeal is allowed the plans are approved and maintenance of any unadopted roads and open space is covered by the Section 106 Agreement.

28. Pre-Occupation Condition: No individual dwelling in the development hereby approved shall be occupied until the bicycle storage area as shown on approved plans CD2.39 and CD2.91 is constructed. The bicycle storage area shall be retained and maintained for its purpose thereafter.

Reason: To support the principles of sustainable development and inclusive access pursuant to Policies S1, and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

29. Pre-Occupation Condition: The proposed Electric Vehicle infrastructure shall be provided prior to first occupation of each dwelling in accordance with detail in the approved drawings (Doc.134).

Reason: To support the principles of sustainable development and inclusive access pursuant to Policies S1, and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

Appellant comment: This condition is unnecessary as EV charging details are the subject of Part S of the Building Regulations and hence covered by other legislation.

30. Condition: The garage spaces provided shall be kept available for the parking of motor vehicles at all times. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and/or re-enacting that Order) the garage/car parking space(s) hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging of private motor vehicles associated with the residential occupation of the property without the grant of further specific planning permission from the Local Planning Authority.

Reason: To support the principles of residential amenity pursuant to Policy CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

31. Condition: No gates, including any part of their opening arc shall be permitted to open out over public highway limits. Any gates should therefore be set back an appropriate distance from the carriageway edge or be physically prevented from opening over the adjoining highway.

Reason: To support the principles of sustainable development and inclusive access pursuant to Policy CF6 of the High Peak Local Plan 2016.

PROW

32. 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.

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.

Reason: To facilitate the clear and safe, retained vehicle use of Adderley Place for occupants of the dwellings to the west of the application site only.

ECOLOGY & WILDLIFE:

33. Pre-Condition: No development shall take place until measures to protect badgers from being trapped in open excavations are installed. The measures shall include:

- a. Creation of sloping escape ramps for badgers which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day.
- b. Open pipe-work larger than 150 mm outside diameter should be blanked off at the end of each working day. The development shall be carried out in accordance with the approved details.

Upon commencement of open excavations, culverts or any pipes with an outside diameter larger than 150 mm the above measures shall be installed.

Reason: To provide adequate safeguards for the protection of any protected species existing on the site, in accordance with Policy EQ5 of the High Peak Local Plan 2016 and paragraph 17 and Section 11 of the National Planning Policy Framework.

34. Pre-Condition: No development shall commence until a detailed Landscape and Ecological Mitigation and Management Plan for all retained habitats within the development site including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than privately owned, domestic gardens, has been submitted to and approved in writing by the Local Planning Authority. The plan should be provided in accordance with the proposals set out in the updated Biodiversity Metric and Landscaping Plans and the content of the plan should include the following:

1. Description and evaluation of features to be managed / enhanced or created. This should include:-
 - a) A copy of an updated metric, once the offsetting scheme has been approved.
 - b) Description and location of features to be retained, created, enhanced and managed, as per the approved biodiversity metric to include habitat enhancements for wildlife, in line with British Standard BS 42021:2022, details of offset gullies and drop kerbs in the road network to safeguard amphibians and detailed specifications for SuDS to provide biodiversity benefits.
2. Ecological trends and constraints on site that might influence management.
3. Aims and objectives of management.

4. Appropriate management options and methods for achieving aims and objectives.
5. Timescales
6. Prescriptions for management actions methods and practices to achieve aims and objectives.
7. Preparation of a work schedule (including an annual work plan capable of being rolled forward over a including a 30-year work plan).
 - i. Details of the body or organisation responsible for implementation of the plan.
 - ii. Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured as by the developer with the management body(ies) responsible for its delivery.
 - iii. A monitoring schedule to assess the success of the habitat creation and enhancement measures at intervals of 1, 2, 3, 4, 5, 10, 15, 20, 25 and 30 years with Monitoring reports to be sent to the Council at each of the intervals above.
 - iv. Details where the results from monitoring show that conservation aims and objectives of the plan are not being met, how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.
8. A statement of compliance upon completion of initial planting and enhancement works.

Reason: In the interests of sustainable development and the natural environment, in accordance with Policy DS4, S1, EQ1, EQ2, EQ5, EQ6, EQ8, EQ9, and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

35. Condition: No tree/shrub clearance work shall be carried out between 1 March and 31 August inclusive in any year, unless the site has been surveyed in advance for breeding birds and a scheme to protect breeding birds has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: To provide adequate safeguards for the protection of any protected species existing on the site, in accordance with Policy EQ5 of the High Peak Local Plan 2016 and paragraph 17 and Section 11 of the National Planning Policy Framework.

TREES & LANDSCAPING

36. Pre-Condition: Protection of Existing Trees/Hedgerows and Planting Locations (Demolition & Construction)

No operations (including initial site clearance) shall commence on site in connection with development hereby approved until a suitable scheme (Arboricultural Method Statement) for the protection of existing trees and hedgerows has been submitted and its installation on site has been approved in writing by the Local Planning Authority.

All protection measures must fully detail each phase of the development process taking into account demolition/site clearance works, all construction works and hard and soft landscaping works. Details shall include the following:

- a. Full survey of all trees on site and those within influencing distance on adjacent sites in accordance with BS5837*, with tree works proposals. All trees must be plotted on a site plan**, clearly and accurately depicting trunk locations, root protection areas and canopy spreads.
- b. A plan** detailing all trees and hedgerows planned for retention and removal.
- c. A schedule of tree works for all the retained trees specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS 3998*.
- d. Timing and phasing of works
- e. Site specific demolition and hard surface removal specifications
- f. Site specific construction specifications (e.g. in connection with foundations, bridging, water features, surfacing)
- g. Access arrangements and car parking
- h. Level changes
- i. Landscaping proposals
- j. A tree protection plan** in accordance with BS5837* detailing all methods of protection, including but not restricted to: locations of construction exclusion zones, root protection areas, fit for purpose fencing and ground protection, service routes, works access space, material/machinery/waste storage and permanent & temporary hard surfaces.
- k. Soil remediation plans, where unauthorised access has damaged root protection areas in the construction exclusion zones.
- l. All other areas detailed in the Arboricultural Method Statement Heads of Terms Plan from drawing D9131.003 of the TEP Arboricultural Impact Assessment - 9131.001 – April 2023.

All tree protection methods detailed in the approved Arboricultural Method Statement shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

*Using the most recent revision the of the Standard

** Plans must be of a minimum scale of 1:200 (unless otherwise agreed by the Local Planning Authority)

Reason: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscaping features, and appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of the local environment, air quality and adapting to and mitigating climate change in accordance with Adopted High Peak policies EQ1, EQ2, EQ5, and EQ9 and EQ11 of the Local Plan and the National Planning Policy Framework.

Appellant comment: Sufficient details are in the AIA (CD2.65). The Appellant requests the Inspector considers a compliance condition tied to that document.

37. Notwithstanding the details shown in the approved planting plans, for the street trees within the highway the following details should be provided prior to installation of street trees within the highway:

- a. Comprehensive details of ground/tree pit preparation to include:
 - i. Plans detailing adequate soil volume provision to allow the tree to grow to maturity
 - ii. Engineering solutions to demonstrate the tree will not interfere with structures (e.g. root barriers/deflectors) in the future
 - iii. Staking/tying method(s).
 - iv. Five-year post planting maintenance and inspection schedule.

All tree planting must be carried out in full accordance with the approved scheme in the nearest planting season (1st October to 28th February inclusive). The quality of all approved tree planting should be carried out to the levels detailed in British Standard 8545, Trees: from nursery to independence in the landscape - Recommendations.

Any trees which die, are removed, uprooted, significantly damaged, become diseased or malformed within five years from the completion of planting, must be replaced during the nearest planting season (1st October to 31st March inclusive) with a tree/s of the same size, species and quality as previously approved.

Reason: To ensure appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of the local environment, air quality and adapting to and mitigating climate change in accordance with policies EQ1, EQ2, EQ5 and EQ9 of the Local Plan.

38. Condition: Existing Tree/ Shrub/ Hedge Retention

a. No existing trees, shrubs or hedges within the site which are shown to be retained on the approved plans (Plan/Drawing: Drawing no. D9131.002 of the TEP Arboricultural Impact Assessment - 9131.001 – April 2023) shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without previous written consent of the Local Planning Authority.

b. Any trees, shrubs or hedges indicated on the approved scheme (including the scheme for off-site planting) which, within a period of five years from the date of planting, die, are removed or become seriously damaged, diseased or dying shall be replaced during the next planting season with other trees or plants of a location, species and size which shall be first agreed in writing by the Local Planning Authority.

Reason: To ensure appropriate landscape protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of the local environment, air quality and adapting to and mitigating climate change in accordance with policies EQ1, EQ2, EQ5, EQ9 and EQ11 of the Local Plan and paragraph 118 of the National Planning Policy Framework.

Appellant comment: There is no need to list off site tree planting in this condition as that is a matter for the Section 106 Agreement.

39. Pre-Condition: The development hereby approved shall be constructed in accordance with a suitable Tree Monitoring Program.

a) Prior to the commencement of development (including ground works and site clearance), the following shall be submitted to and approved by the Local Planning Authority:

A tree monitoring program to include:

- i. Confirmation of who shall be the lead arboriculturist for the development.
- ii. Confirmation of the Site Manager, key personnel, their key responsibilities and contact details.
- iii. Details of induction procedures for all personnel in relation to arboricultural matters.
- iv. A detailed timetable of events for arboricultural supervision concerning all tree protection measures within the approved Tree Protection Plan, to include:
 - Routine site inspection on a schedule not greater than 6 weeks between each visit.
 - Prestart meeting with a High Peak Borough Council Tree Officer.
 - Prestart treeworks and creation of new woodland edges.

- Initial implementation/installation of the tree protection measures.
- Any alterations of tree protection measures due to construction phases.
- Approved incursions in to construction exclusion zones.
- Installation of no-dig roads and paths in root protection areas.
- Final removal of the tree protection measures

v. Procedures for dealing with non-approved incursions into the construction exclusion zones as detailed in the approved Arboricultural Method Statement.

b) Within 1 week of each arboricultural site visit on the approved timetable a report containing the following details shall be submitted to the Local Planning Authority:

- i. Results of each site visit by the lead arboriculturist with photos attached.
- ii. Assessment of the retained and planted trees including any necessary remedial action as a result of damage incurred during construction.

c) Within 3 months of first use of the development hereby approved, a report containing the following details shall be submitted to and approved by the Local Planning Authority:

- i. Assessment of the retained and planted trees including any necessary remedial action as a result of damage incurred during construction.

The proposed trees are to be maintained for a minimum period of 5 years from first occupation.

Reason: To ensure appropriate tree protection in the interests of protecting the visual amenity of the area, contributing to the quality and character of the local environment, air quality and adapting to and mitigating climate change in accordance with policies EQ1, EQ2, EQ5 and EQ9 of the Local Plan.

Appellant comment: The Appellant considers that this condition contains an excessive level of unnecessary detail much of which is covered by the construction management plan condition and adherence to the AIA.

BIODIVERSITY & WILDLIFE

40. Before the development is commenced (including any vegetation clearance, ground works or the introduction of machinery and materials to site), a scheme for the offsetting of biodiversity impacts at the site, including bespoke compensation measures, and timescales for implementation shall be submitted to and approved in writing by the Local Planning Authority in conjunction with the Derbyshire Wildlife Trust. This should be supported by an updated biodiversity metric for the site, costings and appropriate legal agreements to guarantee third party delivery of ongoing habitat management requirements. The Offsetting Scheme shall include:

- a. Identification of offsetting site or sites.

- b. Details of the offsetting requirements of the development, in accordance with an updated version of the current Defra biodiversity metric, demonstrating a net gain;
- c. Details of the bespoke compensation requirements to sufficiently address the losses of Lowland Dry Acid Grassland and Purple Moor & Grass Rush Pasture.
- d. The provision of evidence of arrangements to secure the delivery of offsetting measures, including a timetable of delivery; and
- e. A management and monitoring plan, to include for the provision and maintenance of the offsetting measures for a period of not less than 30 years from the commencement of the scheme. The management and monitoring plan is to include:
 - i. Description of all habitat(s) to be created/restored/enhanced within the offsetting scheme, including expected management condition and total area;
 - ii. Review of any ecological constraints;
 - iii. Current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, removal of topsoil to reduce nutrient concentrations);
 - iv. Detailed design and working methods (management prescriptions) to achieve proposed habitats and management conditions, including extent and location or proposed works;
 - v. Type and source of materials to be used, including species list for all proposed planting and abundance of species within any proposed seed mix;
 - vi. Methodology for habitat translocation, if necessary;
 - vii. Identification of persons responsible for implementing the works;
 - viii. A timetable of ecological monitoring to assess the success of all habitat creation/enhancement. Ecological monitoring reports should be submitted to the LPA at Years 1,2,3,4,5,10,15,20,25 and 30.

The inclusion of a feedback mechanism to the Local Planning Authority, allowing for the alteration of working methods/management prescriptions, should the monitoring deem it necessary.

The arrangement necessary to secure the delivery of the offsetting measures shall be executed prior to written approval by the Local Planning Authority in conjunction with the Derbyshire Wildlife Trust. The offsetting scheme shall thereafter be implemented in accordance with the requirements of the approved scheme.

Reason: In the interests of sustainable development and the natural environment, in accordance with Policy DS4, S1, EQ1, EQ2, EQ5, EQ6, EQ8, EQ9, and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

41. Pre-Condition: Construction Environmental Management Plan (CEMP: Biodiversity) - No development shall take place (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of sustainable development and the natural environment, in accordance with Policy DS4, S1, EQ1, EQ2, EQ5, EQ6, EQ8, EQ9, and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

42. Pre-Occupation Condition: Lighting. No dwelling shall be occupied until a Lighting Plan showing street lighting and any external lighting to dwellings is submitted and agreed by the Local Planning Authority. The lighting scheme shall be designed to safeguard bats and other nocturnal wildlife. It shall avoid lightspill to woodland edges and areas of open space and retain dark corridors where necessary. Details of the chosen luminaires, their locations and any mitigating features such as dimmers, PIR sensors and timers shall be provided. Such approved measures will be implemented in full prior to any occupation of dwellings.

Reason: In the interests of sustainable development and the natural environment, in accordance with Policy DS4, S1, EQ1, EQ2, EQ5, EQ6, EQ8, EQ9, EQ10 and CF6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

RECREATION

43. Pre-Occupation Condition: Unless otherwise agreed in writing by the Local Planning Authority, the last completed dwelling on the site shall not be occupied until the proposed Trim Trail, Locally Equipped Area for Play (LEAP) is completed to the satisfaction of the Local Planning Authority. The LEAP shall be in accordance with the document "The Requirements of a Locally Equipped Area for Play". The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory landscaped setting in the interests of amenity and to enable the provision of the on-site play contribution for the development in accordance with Policy EQ6 and CF4 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

ARCHAEOLOGY

44. No development – including enabling works along the line of Adderley Rd – shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organization to undertake the works set out
- g. within the Written Scheme of Investigation

Reason: To ensure the protection and enhancement of archaeological assets in accordance with Policies S1, and EQ7 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

45. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition (65)."

Reason: To ensure the protection and enhancement of archaeological assets in accordance with Policies S1, and EQ7 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

46. Pre-Occupation Condition: The development shall not be occupied until the site investigation and post investigation reporting has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition (65) and the provision to be made for publication and dissemination of results and archive deposition has been secured.

Reason: To ensure the protection and enhancement of archaeological assets in accordance with Policies S1, and EQ7 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

Signed for the Appellant:

A handwritten signature in black ink that reads "Niall Mellan". The signature is written in a cursive style with a large initial 'N'.

Niall Mellan

Dated: 12 June 2024

Signed for High Peak Borough Council:

BJ O'Brien

Dated: 12 June 2024