

**HIGH PEAK BOROUGH COUNCIL  
DEVELOPMENT CONTROL COMMITTEE**

Date 14<sup>th</sup> January 2019

<b>Application No:</b>	HPK/2018/0465		
<b>Location</b>	Amenity space (former public conveniences) Water Street, Buxton, SK17 6XN		
<b>Proposal</b>	Change of use from site of former public conveniences to community amenity space		
<b>Applicant</b>	Buxton Civic Association		
<b>Agent</b>	Mr Fussell		
<b>Parish/ward</b>	Corbar	<b>Date registered</b>	11 <sup>th</sup> September 2018
<b>If you have a question about this report please contact: Faye Plant, Tel. 01298 28400 extension 4995, faye.plant@highpeak.gov.uk</b>			

**1. SUMMARY OF RECOMMENDATION**

**APPROVE, subject to conditions**

**REASON FOR COMMITTEE DETERMINATION**

1.1 This application has been brought before the Development Control Committee as the site is owned by High Peak Borough Council.

**2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

2.1 The application site is situated on the north western side of Water Street, within an area of Council owned amenity land between Water Street and St Johns Road. The site previously housed a block of public conveniences which have long since been demolished and is currently used informally for parking and is in a state of disrepair.

2.2 The brick and concrete tiled base and stone/brick faced retaining walls remain in place and there are established planted beds surrounding the site enclosed by a steel rail fence.

2.3 The site lies within a prominent location within the town centre and built up area boundaries and within the Buxton Central Conservation area.

**3. DESCRIPTION OF THE PROPOSAL**

3.1 The application seeks full consent for the use of the land as a community garden/amenity space.

3.2 The proposal involves various repairs and works as listed below;

- Repair and extension of low stone wall with matching materials, including stone capping.
- Erection of a render finished block skin wall to be tied to the existing retaining wall,
- Replacement of concrete floor with York stone paving slabs with a concrete edge and tarmac paths with bench around the perimeter,
- Creation of planted beds to the front of the site at footway level and erection of timber planter centrally located within the site,
- Reinvigoration of planted area to create cottage garden, and planting of fruit trees.

3.3 Buxton Civic Association will be taking a licence to occupy the land and undertake the works. The description of development was amended during the course of the application, with the agreement of the applicant, to clarify the nature of the proposal.

3.4 The application, the details attached to it including the plans, comments made by residents and the responses of the consultees can be found on the Council's website at:

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=227231>

#### **4. RELEVANT PLANNING HISTORY**

4.1 There is no relevant planning history associated with this site.

#### **5. PLANNING POLICIES RELEVANT TO THE DECISION**

##### **High Peak Local Plan 2016**

S1 – Sustainable Development Principles  
 S1a – Presumption in Favour of Sustainable Development  
 S2 - Settlement Hierarchy  
 S7 – Buxton Sub Area Strategy  
 E6 – Promotion Peak District Tourism and Culture  
 EQ6 – Design and Place Making  
 EQ7 - Built and Historic Environment  
 CF1 – Retail and Town Centres  
 CF4 – Open Space, Sports and Recreation Facilities  
 CF5 – Provision and Retention of Local Community Services and Facilities

##### **Supplementary Planning Documents**

- High Peak Design Guide
- Buxton Design and Place Making Strategy
- Buxton Conservation Area Character Appraisal

## National Planning Policy Framework

Section 2 – Achieving sustainable development

Section 8 – Promoting healthy and safe communities

Section 12 – Achieving well-designed places

Section 16 - Conserving and enhancing the historic environment

## 6. CONSULTATIONS

<b>Site notice</b>	Expiry date for comments: 31 <sup>st</sup> December 2018
<b>Neighbour letters</b>	Expiry date for comments: N/A
<b>Press Advert</b>	Expiry date for comments: 6 <sup>th</sup> December 2018

### Neighbours

2 Letters of support received. Comments are summarised below;

- This is a good use of a derelict space

<b>Consultee</b>	<b>Comment</b>	<b>Officer response</b>
<b>HPBC Asset Management</b>	Asset management are supportive of this development.	
<b>Conservation Officer</b>	No objection to the principle of enhancing and managing this neglected site but the detail is a little unclear. Conditions required to agree facing materials, details of wall construction including pointing, coursing, and coping and details of the bench and planter.	
<b>DCC Archaeologist</b>	We do not consider that it will have any archaeological impact and would not wish to comment further.	
<b>DCC Highways</b>	No objection subject to no encroachment on or over the public highway	
<b>HPBC Operational Services</b>	We are fully supportive of the application to turn a derelict hardstanding area into a community sensory garden with appropriate planting which is beneficial to wildlife and attractive to visitors.	

## 7. POLICY AND PLANNING BALANCE

## **Planning Policies**

7.1 The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations." The Development Plan consists of the High Peak Local Plan Policies Adopted April 2016.

7.3 Other material considerations include the National Planning Policy Framework 2018 (The Framework) and National Planning Policy Guidance (NPPG). Paragraph 10 of the Framework explains that at the heart of the Framework is the presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with an up-to-date development plan, they should be approved without delay.

## **Principle of Development**

7.4 The application site lies within a relatively prominent location within the Conservation Area and town centre, close to numerous designated heritage assets such as the Devonshire Dome, Opera House, the Square, the Crescent and Pavillion Gardens.

7.5 Section 8 of the NPPF seeks to achieve healthy, safe and inclusive places through, amongst other things, the provision of community facilities and open spaces to enhance the sustainability of communities. Strategic Policy S7 of the High Peak Local Plan seeks to protect and enhance the unique character of Buxton's spa heritage and townscape to maintain quality of life and to act as a catalyst for tourism. Policy E6 and CF4 outline recreational facilities should be supported to improve resident and visitor experiences for the benefit of the health and well-being of local communities.

7.6 The proposed community amenity space is considered to be acceptable in principle, subject to matters regarding design, amenity and highway safety which are covered below.

## **Design and Appearance within the Conservation Area**

7.7 Section 16 of the Framework advises that when determining applications for works that affect heritage assets, local planning authorities should take account of:

1. The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
2. The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
3. The desirability of new development making a positive contribution to local character and distinctiveness.

7.8 Local Plan Policies S7, EQ6 and EQ7 also seek to protect and conserve heritage assets in a manner appropriate to their significance. Section 12 of the NPPF aims to ensure developments function well and add to the overall quality of the area and are visually attractive. Similarly EQ6 aims for well designed, high quality development that responds positively to its environment.

7.9 The proposed use of the site and the proposed repairs and renovations are considered to be a significant improvement to the visual qualities of the area. The proposed materials are acceptable and the layout for the amenity space are appropriate and will result in an overall enhancement in the character and appearance of the site and the surrounding Conservation Area to which this site forms a part.

7.10 It has been agreed with the applicant that details of the materials used will be agreed via pre-commencement condition.

7.11 The proposals are therefore considered to be acceptable and in accordance with Section 12 and 16 of the NPPF and policies S7, EQ6 and EQ7 of the High Peak Local Plan.

### **Amenity**

7.12 Paragraph 127 of the NPPF seeks to create safe, inclusive and accessible places which have a high standard of amenity for existing and future users. Local plan policy EQ6 requires development to achieve a satisfactory relationship to adjacent development.

7.13 The proposals will not harm amenity of neighbouring properties and will provide an accessible community space that has good natural surveillance. The proposal is in accordance with Section 12 of the NPPF and policy EQ6 of the Local Plan in this regard.

### **Highway Safety**

7.14 The NPPF promotes sustainable transport, whilst Policy CF6 of the Local Plan seeks to ensure development can be safely accessed in a sustainable manner.

7.15 The highway authority have not raised objection to the proposal provided there is no encroachment into the public highway. The proposed garden will remove the potential for unauthorised parking, which currently requires

vehicles to cross the footway. The proposed works will not extend out of the site and the proposal is therefore considered to be in accordance with Section 9 of the NPPF and Local Plan policy CF6 in this regard.

## **8. Planning Balance & Conclusion**

8.1 The purpose of the planning system is to contribute to the achievement of sustainable development through 3 overarching objectives, those being economic, social and environmental objective.

8.2 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. For decision making this means that amongst other things, that local planning authorities should positively seek opportunities to meet the development needs of their area and to secure a development that improves the economic, social and environmental conditions of the area.

8.3 The proposals will have significant social and environmental benefits by improving a currently under-utilised area to create a visually attractive community garden area within the town centre and Conservation Area which is a designated heritage asset.

8.4 The NPPF states at para 192:

*In determining applications, local planning authorities should take account of:*

*a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*

*c) the desirability of new development making a positive contribution to local character and distinctiveness.*

8.5 Para 194 states: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”.*

8.6 The NPPF goes on to explain that where a proposed development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

8.7 In this case the proposal will not result in conflict between the heritage asset's conservation and any aspect of the proposal or adversely affect its significance. In fact, it is considered that the proposal will enhance the asset of the Conservation Area and the setting of other nearby heritage assets and would not result in any harm to those assets. Accordingly, therefore it is not necessary to consider whether any harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

8.8 The proposal is compliant with the policies within the development plan and the NPPF and is considered to be sustainable development and is accordingly recommended for approval.

## **RECOMMENDATIONS**

**A. It is recommended that Full Planning Consent be APPROVED, subject to the following conditions:**

<b>Condition number</b>	<b>Brief description</b>	<b>Comment</b>
TL01	3 Year Time limit	
AP01	Approved Plans	
LB07	Submission of Materials	
Non standard	Details of proposed bench and proposed planter	
Non standard	Details coursing, pointing and stone copings	

**B. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Operations Manager Development Services has delegated authority to do so in consultation with the Chairman of the Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the Framework the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

