

**HIGH PEAK BOROUGH COUNCIL**

**Report to Development Control Committee**

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

<b>TITLE:</b>	<b>PERFORMANCE ON PLANNING APPEALS</b>
<b>CONTACT:</b>	<b>DEVELOPMENT MANAGEMENT TEAM</b>
<b>WARDS INVOLVED:</b>	<b>ALL</b>

**Appendices Attached - None**

1. **Reason for the Report:** To inform members of appeals lodged and decided since the last meeting of the Development Control Committee.
2. **Recommendation**
  - 2.1 That the report be noted.
3. **APPEALS LODGED**

None
4. **APPEAL DECISIONS RECEIVED**

**Application No.** HPK/2018/0323

**Location:** Jumble Farm, Kinder Road, Hayfield, Derbyshire, SK22 2HS

**Proposal:** Single storey side extension to form reconfigured kitchen, dining and utility, connection with outbuilding to form ancillary space to dwelling

**Level and Date of Decision:** Delegated 17<sup>th</sup> September 2018

**Recommendation:** Refuse

**Decision:** Refused

**Appeal Decision and Date:** Appeal dismissed on 30<sup>th</sup> November 2018

**Method of Decision:** Written Representations

**Main Issues:** The effect of the proposal on the character and appearance of the host dwelling and its setting within the Hayfield Conservation Area (CA).

**Conclusions:**

The Inspector concluded:

- I do have concerns about the detailing of the proposed extension, particularly that of its north elevation (which is home to the main entrance) and also the south elevation. The large rectangular 4 pane window section to the north elevation pays little regard to the fenestration arrangement of the host dwelling. To my mind, the detailing proposed neither fits with the traditional window and door arrangement of the converted barn nor is it a successful contemporary statement, which is the alternative design approach suggested by the Council's adopted Supplementary Planning Document titled 'Design Guide' (SPD). In addition, I consider that the two rooflights and two windows with horizontal emphasis proposed for the south elevation of the extension and converted lean-to would give it an unduly cluttered appearance.
- The extension would not be seen from the public domain. Nevertheless, for the above reasons, I find that it would harm the character and appearance of the host dwelling and that of the CA, which is home to well ordered buildings in the main. This harm would be 'less than substantial' as directed by the Planning Practice Guidance.
- The National Planning Policy Framework (the Framework) explains that 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. It goes on to say that 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. In this case, the appellants have not suggested that the proposal would bring about any public benefit other than the limited economic benefits during construction.

**Application No.** HPK/2016/0614

**Location:** Land South of Shaw Lane, Hadfield, Glossop, SK13 6EE.

**Proposal:** 9 Unit housing scheme

**Level and Date of Decision:** Committee 22<sup>nd</sup> January 2018

**Recommendation:** Refusal

**Decision:** Refused

**Appeal Decision and Date:** Appeal allowed on 12<sup>th</sup> December 2018

**Method of Decision:** Written Representations

**Main Issues:** The main issues in this case are: (i) the effect of the proposed development on the character and appearance of the area, and (ii) the effect of the proposed development on the living conditions of future occupiers, with particular regard to daylight and sunlight.

**Conclusions:**

The Inspector concluded:

- The design, scale and massing of the dwellings would be acceptable on a site of these dimensions and topography with the use of gabions. As there is a mix of residential development within the locality, the dwellings would add a suitable mix of development with use of quality materials and sensitive design that would not look incongruous within the locality. In addition, a proposed landscaping scheme would assist in screening the site from the future residential development to the rear, and in conjunction with boundary treatments would have the effect of the proposal assimilating naturally into the immediate locality, and setting a context for the forthcoming development beyond.
- The appeal site currently performs a function as a green edge to the settlement, but I consider that the proposed planting and landscaping included as part of the appeal proposals would outweigh this existing function, and would lead to significant visual benefits that would only increase in importance once the development beyond starts to be constructed. Policy CF4 of the High Peak Local Plan (2016) (the LP) seeks to protect and maintain existing spaces, and in this instance the proposal is consistent with the aims of that policy, in that it will improve the overall visual aspects of the locality and provide a positive verdant aspect when seen in the context of the existing dwellings and the forthcoming residential development.
- The appellant has sought to design the site layout of the proposed dwellings in order to minimise any impacts on adjacent dwellings and the locality and has taken a design inspiration from some of the older style properties in the area. I recognise there is some variation in housing styles and materials in the area and the use of quality materials, fenestration, landscaping and boundary treatment would assist with integrating the

proposal with the area. As a result, I find that the positive design aspect presented with the scheme, and the considerable amount of landscaping proposed outweighs the removal of the existing verdant 'green' edge to the settlement. As the development matures, it will play a significant role in integrating the forthcoming residential developments adjacent to the appeal site into the locality.

- The layout of the proposed dwellings in relation to the retained trees has been designed to avoid pressure for significant pruning and removal by future residents and I have taken into account the evidence presented by the appellant with regard to sunlight pathways accordingly. I also note the layout has been designed to ensure that the root protection zones would not be affected and as such, the appeal proposal is consistent with policy EQ9 of the LP which seeks to protect existing trees, woodland and hedgerows.

### **Officer Comment**

This decision contains a number of obvious errors. For example: Paragraph 15 does not read correctly and indicates that the Inspector is concerned that the scheme conflicts with policies when he has gone on to allow the appeal (see underlining below)

*15. Consequently, I conclude that the proposed development would have not have a significant effect on the character and appearance of the area. The proposal conflicts with policies S1, S1a, CF4, EQ2, EQ6 and EQ9 of the LP which, amongst other issues, seek development proposals to protect open spaces and protect and enhance character and appearance and local distinctiveness as well as seeking to resist proposals detrimental to local landscaping or the setting of a settlement, as well as integrating existing trees into development unless the benefits of development clearly outweigh their loss.*

Paragraph 12 says:

*12. I have noted that the appellant has not identified a shortfall in amenity open space and the site does not meet the designation.*

Officers think that the Inspector means the Council rather than the Appellant here.

There are other issues as well:

- There is no mention anywhere in the decision of the evidence of the Council, only the Appellant. We are concerned as to whether this was put before the Inspector.
- There is no discussion of whether or not an affordable housing condition should be applied to the scheme. This was a significant point of disagreement between the two parties and

was considered at length in both statements. Members will recall that this was the subject of an Appeal decision last month which was not in the Council's favour and Officers were hoping that a second decision on the topic would provide the Council with a decisive steer as to whether it should continue to apply this policy.

We have written to Planning Inspectorate to ask them if they have accidentally issued a "draft" decision which they might want to consider amending. They cannot change the actual decision unless we decide to challenge through Judicial Review but can correct slips, typos and omissions. They have said that they will respond in 20 days.

Meanwhile this of course does not assist the Council on the affordable housing question as we had hoped.

**Application No.** HPK/2017/0624

**Location:** Former High Peak Borough Council Offices, Buxton Road, Chinley

**Proposal:** Variation of Condition No. 2 on HPK/2014/0486 for changes to approved plans including increase to roof heights of buildings, changes to footprint of buildings, use of timber cladding, and changes to window openings and glazing

**Level and Date of Decision:** Committee 12<sup>th</sup> February 2018

**Recommendation:** Approve

**Decision:** Approved with additional condition

**Appeal Decision and Date:** Appeal allowed (subject to revised condition) on 13th December 2018

**Method of Decision:** Written Representations

**Main Issues:** The Appeal was against Condition No 2 of the approval which states that:

*The materials to be used in the development hereby permitted shall be in accordance with those specified on the approved drawings with the exception of the timber cladding. Notwithstanding the details shown on the approved plans no consent is hereby given for the timber cladding on any of the buildings to which this permission relates. Within 6 months of the date of this consent the timber cladding which has already been installed shall be replaced with tinted glass in accordance with samples which shall first be submitted to and approved in writing by the Local Planning Authority. The remainder of the development*

*shall also be completed using the approved glazing in place of timber cladding.*

**Conclusions:**

The Inspector concluded:

- The Council's adopted Design Guide Supplementary Planning Document (SPD)(2018) makes it clear that there is no tradition of timber cladding in the High Peak. It also highlights the importance of stone and slate to the distinctive character of the High Peak and that the use of local building materials helps to create strong visual interest and cohesiveness. In my view, the SPD provides a clear steer on the use of such materials in the Borough.
- The use of timber cladding on existing buildings results in harm to the character and appearance of the area. Using such materials on any new buildings would be equally incongruous in the context of the remainder of the site and thus should be avoided in the interests of local character. Use of such materials is in my view contrary to High Peak Local Plan (2016) Policy EQ6 which seeks, amongst other things, to ensure development is well designed and of a high quality that responds positively to its environment, whilst also contributing to local distinctiveness and sense of place. The use of such materials is also in conflict with paragraph 130 of the Framework and paragraph 127, which expects development to be visually attractive, sympathetic to local character and history and help maintain a strong sense of place. A condition requiring removal and replacement of the cladding is therefore necessary and reasonable.
- The appeal should be allowed and the planning permission Ref HPK/2017/0624 for variation of Condition No. 2 on HPK/2014/0486 for changes to approved plans including increase to roof heights of buildings, changes to footprint of buildings, use of timber cladding, and changes to window openings and glazing granted on 12 February 2018 by High Peak Borough Council, is varied by deleting condition 2 and substituting it with the following condition:

*The materials to be used in the development hereby permitted shall be in accordance with those specified on the approved drawings with the exception of timber cladding. Notwithstanding the details shown on the approved plans no consent is hereby given for timber cladding on any of the buildings to which this permission relates. Unless within 6 months of the date of this decision a scheme for the removal and replacement of the timber cladding that has already been installed, including details of replacement materials and a timetable for implementation, is submitted to the local planning authority for approval, and unless the approved scheme is implemented within the timescales agreed, the use of the site for its approved use shall cease and*

*all equipment and materials brought onto the land for the purposes of this use shall be removed until such time as a scheme is approved and implemented. If no scheme in accordance with this condition is approved within 12 months of this decision, the use of the site for its approved use shall cease and all equipment and materials brought onto the land for purposes of this use shall be removed until such time as a scheme approved by the local planning authority is implemented. The development will proceed in accordance with the approved scheme and timetable. The remainder of the development shall also be completed using the approved materials in place of timber cladding.*

### **Officer Comment**

- The Appeal decision is in respect of the condition imposed by Members on the former Council offices at Chinley requiring removal of the timber cladding. The Inspector agreed with us that the cladding was inappropriate and gave considerable weight to our newly adopted Design Guide, which is very encouraging and the new part of the NPPF which at Paragraph 130 makes it clear that the quality of approved development should not be materially diminished between the granting of permission and completion as a result of changes being made to the permitted scheme. An example given is of changes to approved materials. This is the first time that we have seen this used in an Appeal decision.
- It is also encouraging to see the inspector giving considerable weight to the newly adopted High Peak Design Guide.
- The Inspector however, wanted to amend the wording to the condition so has actually “allowed” the appeal as he granted permission subject to a reworded condition. This still requires the cladding to be removed and replaced and in Officer’s view, in many ways, the wording is actually more stringent than that which we imposed as it requires the use to cease on the site if they do not comply. Therefore although the appeal was technically “allowed”, it is a very good decision for the Council.