

**HIGH PEAK BOROUGH COUNCIL
DEVELOPMENT CONTROL COMMITTEE**

Date 2nd December 2019

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| Application No: | HPK/2019/0450 | |
| Location | Lime Tree Park, Dukes Drive, Buxton | |
| Proposal | Variation of Conditions 2 and 8 relating to HPK/2018/0501 | |
| Applicant | Mr Rob Hilderley | |
| Agent | Mr Christopher Timothy, CT Planning | |
| Ward/Parish | Cote Heath Ward | Date registered 04 October 2019 |
| If you have a question about this report please contact: Mark Ollerenshaw Mark.Ollerenshaw@highpeak.gov.uk 01538 395400 ext. 4921 | | |

1. REFERRAL

The application is referred to the Development Control Committee because the previous application was determined by Committee.

SUMMARY OF RECOMMENDATION

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| APPROVE subject to conditions |
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2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

2.1 The application site comprises a roughly square shaped field which in area extends to 1.88 hectares and is located to the east of Lime Tree Holiday Park. The site slopes upwards from north to south and is bounded by a combination of drystone walls and fencing.

2.2 A public right of way runs through the site: HP18/1/1 connecting Dukes Drive to Staden Lane.

2.3 The site is outside the built up area boundary of Buxton within land designated in the Local Plan as Open Countryside and the Landscape Character Area Plateau Pastures. Ashwood Dale is located immediately to the north of the site and is subject to a number of designations, including Ancient Woodland, Tree Preservation Order, Local Wildlife Site and Regionally Important Geological Site.

3. DESCRIPTION OF THE PROPOSAL

3.1 This application seeks to vary Conditions 2 and 8 attached to the previous approval for the proposed change of use of the land for an extension to existing camp site to include the siting of 21 static caravans.

3.2 Condition 2 lists the approved plans. It is proposed to vary Condition 2 to reference the revised masterplan which details alterations to the layout of the static caravans and planting areas. The access road within the site (which includes the existing public right of way) is proposed to be more of an oval shape extending further to the east, which results in more of the site being landscaped and less space allocated for camping. The number of proposed static caravans remains at 21.

3.3 In addition, it is proposed to vary Condition 8 which provides for ecological enhancements to the site in accordance with the masterplan. The masterplan has been revised and therefore this condition is proposed to be varied to make reference to the revised plan.

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

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=235170>

4. RELEVANT PLANNING HISTORY

DOC/2019/0092 – Discharge of conditions 7, 9, 11 and 12 relating to HPK/2018/0501 – Pending.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=235472>

HPK/2018/0501 - Proposed change of use of land for extension to existing camp site to include the siting of 21 static caravans – Approved 14/01/2019.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=227950>

HPK/2017/0367 – Change of use of land for extension to existing camp site – Approved 31/10/2017.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=217331>

HPK/0003/6049 – Conversion of part of existing wardens dwelling into holiday flat – Approved 06/06/1997.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=217985>

HPK/0003/5866 – Extensions to existing toilet block – Approved 17/12/1996.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=217619>

HPK/0003/4914 – Increase touring site from 30 to 64; erection of one new toilet block and implement store. Extend season to 11 months – Refused on 07/11/1995 but allowed on appeal.

<http://planning.highpeak.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=25715>

5. PLANNING POLICIES RELEVANT TO THE DECISION

Adopted High Peak Local Plan 2016

S1 – Sustainable Development Principles
S1a – Presumption in Favour of Sustainable Development
S2 – Settlement Hierarchy
S4 – Maintaining and Enhancing an Economic Base
S7 – Buxton sub area strategy
EQ1 – Climate Change
EQ2 – Landscape Character
EQ3 – Rural Development
EQ5 – Biodiversity
EQ6 – Design and Place Making
EQ8 – Green Infrastructure
EQ9 – Trees, Woodland and Hedgerows
EQ10 – Pollution Control and Unstable Land
EQ11 – Flood Risk Management
E6 – Promoting Peak District Tourism and Culture
E7 – Chalet Accommodation, Caravan and Camp Site Developments
CF6 – Accessibility and Transport

National Planning Policy Framework

Para 11 The Presumption in Favour of Sustainable Development
Section 6 Building a strong, competitive economy
Section 9 Promoting sustainable transport
Section 12 Achieving well-designed places
Section 14 Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and enhancing the natural environment

6. CONSULTATIONS CARRIED OUT

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| Site notice | Expiry date for comments: 12/11/2019 |
| Neighbours | Expiry date for comments: N/A |
| Press notice | Expiry date for comments: N/A |

Neighbours

None received.

Consultations

| Consultee | Comment | Officer response |
|-----------------------------------|--|-------------------------|
| DCC Highways | No objection subject to no revision to existing alignment of existing Public Right of Way (Footpath 27 Buxton on the Derbyshire Definitive Map). | Paras 7.12-7.15 |
| King Sterndale Parish Council | No comments received. | |
| Environmental Health | No comments received. | |
| Peak & Northern Footpaths Society | Although the letter states "The public right of way has been altered to be more of an oval shape extending further to the east, which has resulted in more of the site being landscaped as opposed to areas allocated for camping", screen comparison of the new masterplan with the original appears to suggest that the right of way is left unaltered. If this is correct and the right of way follows the existing line then clearly we have no objection. If this view is wrong and the path has been altered so that the route is longer, then we would object as this would constitute a detriment for walkers. | Paras 7.12-7.15 |
| Ramblers Association | No comments received. | |
| Derbyshire Wildlife Trust | <p>We have reviewed the updated master plan (Dwg. No. 253 REV-3 (19/09/2017)) in relation to the variation of Conditions 2 and 8 for this application. We are concerned that this plan is an earlier version from 2017 and does not provide the same level of details for the proposed landscaping and the specific biodiversity enhancements.</p> <p>The main differences compared to the current masterplan (Dwg. No. 253-2 REV-0 (23/04/2018)) are the slight changes of layout and positioning of the new static caravans within the centre of the site. We do not consider these changes to have any further impacts to Ashwood Date LWS located adjacent to the north of the application site.</p> | Paras 7.18 – 7.19 |

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| | <p>We do, however, recommend the Council requests additional details in relation to the proposed biodiversity enhancements prior to making any decision, as the updated masterplan (Dwg. No. 253 REV-3 (19/09/2017)) does not provide any details on the types of habitats to be included and proposed species to be planted. The absence of these details from the latest masterplan mean we cannot be certain biodiversity enhancements will be incorporated into the development.</p> <p>The applicant may be able to confirm that the ecological enhancements remain the same and can still be delivered as specified on the earlier masterplan (Drawing No. 253.2, DJOGS, April 2018). We also previously recommended that bat and bird boxes are installed in approved locations.</p> | |
| Severn Trent Water Ltd | No comments received. | |

7. POLICY AND MATERIAL CONSIDERATIONS AND PLANNING BALANCE

Procedural Matters

7.1 Section 73 of the Town and County Planning Act 1990 allows for an application to be made to vary or remove planning conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment to a development, where there is a relevant condition that can be varied. There is no statutory definition of “minor material amendment”. However, it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved.

7.2 It is therefore necessary to consider whether the changes proposed are a minor material amendment to the development and whether they substantially differ in scale and nature to the development approved in addition to considering whether planning permission for the development should be granted subject to conditions which differ from those previously approved.

Policy Context

7.3 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.

7.4 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material

circumstances 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 adopted High Peak Local Plan 2016.

7.5 Paragraph 11 of the NPPF 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 the development plan, they should be approved without delay, but where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

Principle of development

7.6 The principle of this development has been accepted through the granting of the previous applications, HPK/2017/0367 and HPK/2018/0501 and both of these previous permissions remain extant. Whilst the site is situated within the Open Countryside, Local Plan Policy EQ3 supports the provision and expansion of tourist and visitors facilities in sustainable locations where identified needs are not met by existing facilities.

Design and Visual Amenity

7.7 Policy EQ6 requires development to contribute positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features.

7.8 Policy EQ2 is relevant as it seeks to protect, enhance and restore the landscape character of the Plan Area.

7.9 The NPPF places high value on the importance of enhancement of the natural environment, especially valued landscapes. It asserts that the aim should be to encourage the effective use of land by re-using land that has been previously developed where practical. That being the case, further advice within the Framework iterates the importance of conserving the natural environment including retaining existing mature trees and protecting biodiversity interests.

7.10 The proposed revision to the scheme shows the three rows of static caravans in an arc like alignment in contrast to the linear alignment of the previous layout. The internal access road is more oval shaped than previously approved and extends further east into the site. There are larger areas of landscaping/planting and a smaller proportion of grassed camping areas. The overall scale and nature of the development remains as previously approved and the changes proposed would not have any additional impact on the visual amenities of the area.

7.11 In the context of the previous approval the proposed changes to the scheme would not have a materially greater impact on the character of the landscape.

Highway Safety

7.12 Policy CF6 of the adopted Local Plan seeks to ensure that new development proposals provide a safe means of access and are located where the road network can accommodate additional traffic generation.

7.13 The highway safety aspects of this development have been considered previously and found acceptable. The existing access will be utilised and there is ample space within the site for parking and manoeuvring.

7.14 The Highway Authority does not object to this application subject to no revision to the existing alignment of the existing public right of way running through the site. The Peak and Northern Footpaths Society also state that they have no objection provided the right of way follows the existing line. The applicant's covering letter states that the public right of way has been altered to be more of an oval shape extending further to the east. However, examination of the submitted masterplan for the site and the previously approved plan reveals that the public right of way through the site would follow its existing alignment. The applicant's statement that the public right way is being altered to be more of an oval shape appears to refer to the vehicular access track serving the development, rather than the public right of way, which is shown on the revised plan as extending further east into the site with a more oval shape. The applicant's agent has subsequently confirmed that the public right of way is unaltered and will follow its existing alignment. Therefore, it is considered that the revised proposal would not be detrimental to the existing public right of way. The previous approval was subject to a condition (13) requiring submission of a scheme for appropriate signage relating to the public footpath and this condition is again recommended.

7.15 In summary the proposals would not adversely affect highway safety and thereby accord with Local Plan Policy CF6 in this regard.

Amenity

7.16 Policy EQ6 of the adopted Local Plan requires that development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

7.17 The proposed changes to the scheme are of a minor nature which would not affect the amenities of the neighbouring dwelling or chalets on the holiday park to the west.

Biodiversity / Trees

7.18 The applicant seeks to vary Condition 8 relating to ecological enhancements so that this condition references the updated masterplan. The Derbyshire Wildlife Trust advises that the changes to the layout of the scheme would not have any further impacts on Ashwood Dale Local Wildlife Site which is located to the north of the site boundary. However, DWT is concerned that, unlike the previously approved master plan, the revised plan does not provide details in relation to biodiversity enhancement –

types of habitats to be created and proposed species to be planted. In the absence of these details it is not clear whether biodiversity enhancements will be incorporated into the development. This issue has been raised with the applicant and Members will be updated on this matter via the Update Sheet. Provided suitable details are submitted it is considered that the scheme will comply with Local Plan Policy EQ5 in respect of biodiversity enhancement.

7.19 The proposed revisions to the scheme would not affect the adjoining Ancient Woodland. The previous approval was subject to conditions covering tree protection measures and the need for appropriate landscaping and these conditions are again attached to the recommendation.

8. PLANNING BALANCE AND CONCLUSION

8.1 The development of the site has been accepted by the granting of the previous applications. The changes proposed are considered to be minor material amendments to the approved scheme and their scale and/or nature would not result in a development which is substantially different from the one which has been approved. Therefore it is considered that a fresh application is not required and these can be dealt with via the Section 73 process.

8.2 Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances 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 currently consists of the High Peak Local Plan 2016.

8.3 The revised scheme would have no additional impact on landscape character, highway safety, nearby residential amenity or trees. Subject to the applicant clarifying that the ecological enhancements remain the same as previously approved, the scheme would accord with the requirements of Policy EQ5. It is considered that the scheme complies with the relevant Local and National Planning Policies set out at the beginning of this report and, in the absence of any other material considerations, accordingly it is recommended that this application for the variation of Conditions 2 and 8 be approved. As with the earlier approval, other than those conditions the subject of this application, all other conditions will be re-imposed.

9. RECOMMENDATIONS

A: APPROVE, subject to the following conditions:

Conditions

| Condition ref number | Brief description | Comment |
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| TL01 | Development to begin within 3 years of 14 th January 2019. | |

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| AP01 | Development in accordance with amended plans. | |
| NSTD | Restriction on the number of caravans on site at any one time to 21. | |
| NSTD | The occupation of the caravans must solely be for tourism or recreation only and not for permanent residential use. | |
| NSTD | Landscaping scheme to be submitted and agreed. | |
| LA02 | Landscaping scheme to be carried out and maintained. | |
| LA12 | Tree Protection measures | |
| NSTD | Development to proceed in accordance with the Master Plan to provide ecological enhancements, including installation of bat and bird boxes. | |
| NSTD | Submission of a Construction Environmental Management Plan. | |
| NSTD | Submission of a detailed lighting strategy to safeguard the functionality of the adjacent woodland for roosting and foraging bats. | |
| NSTD | Submission of an assessment to demonstrate adequate sewage disposal. | |
| NSTD | Submission of surface water drainage scheme | |
| NSTD | Submission of a scheme for provision of appropriate signage relating to the route of the public footpath through the site. | |

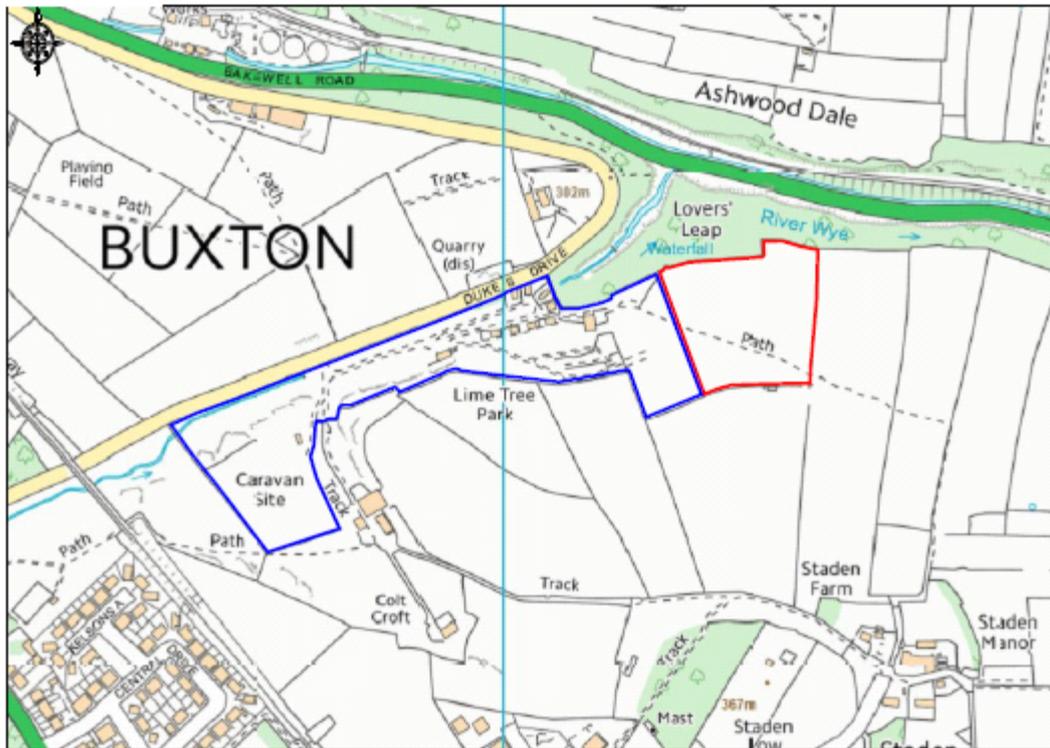
B In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued,

the Operations Manager – Development Services has delegated authority to do so in consultation with the Chairman of the Development Control Committee, provided that the changes do not exceed the substantive nature of the Committee’s decision.

Informative

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 NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

Site Plan



Promap
LANDMARK INFORMATION GROUP

Drawing 4658.99 Location Plan : Scale 1:5000 at A4 : June 2017