

19th APRIL 2021

HPBC DEVELOPMENT CONTROL COMMITTEE

UPDATE SHEET

HPK/2020/0301 – Taxal Edge, Whaley Bridge

HPBC Case Officer:

To address matters raised in the circulation of correspondence submitted by the applicant to Members and the case officer on the 15th April 2021 (and available in full on the public file), officers respond as follows:

As stated within the officer report, the applicant submitted a completed Notice of intention to submit and appeal in respect of planning application reference HPK/2020/0301 at Taxal Edge, Macclesfield Road, Whaley Bridge to the council on the 25th March 2021.

Subsequently, the Council was copied into the correspondence from the applicant to the Planning Inspectorate of the submission of the planning appeal via The Planning Inspectorate Appeals Casework Portal on the 8th April 2021.

Contrary to the applicant's view, the submitted appeal has not yet been validated by the Planning Inspector and until it is, the Local Planning Authority is able to issue to a decision to either refuse or approval the application if Members are minded to do so. If the appeal is validated before officers are able to issue a decision notice then we would not be able to issue the refusal of planning permission, but that it would serve as the basis on which the Council would defend the appeal.

Whilst the applicant has requested a public inquiry, this has not yet been confirmed by the Planning Inspectorate. Accordingly, the Planning Inspectorate have invited comments from the Council and will make their decision based on the published criteria and will take account of the views expressed by both the appellant and the local planning authority. The Council consider that a full and fair hearing would be achieved through either written representations or an informal hearing and there are no complex matters of fact, policy or law.

Clearly, there is a difference in approach to the application of Local Plan Policy. The Council have amended their stance on a number of matters since receipt of the application, quite properly following consideration of representations and further information submitted by the applicant during the course of the application process. The Council's view is clearly set out in the committee report due to be considered by planning committee on the 19th April. Whereby the fallback position is dealt with comprehensively in the officer report to planning committee on the 19th April 2021.

Whilst the applicant refers to application of costs, Officers consider that their behaviour has been reasonable and matters raised relate to planning judgement underpinned by the Adopted Local Plan .

The 'Winter Image 2020' provided within this submission clearly shows that development would neither adjoin the built up area boundary nor be well related with the existing pattern of development and surrounding land uses or be of an appropriate scale for the settlement. As well, it is considered that it would lead to a prominent intrusion into the countryside and have an adverse impact on its character.

The enforcement investigations are relevant to the current application in that a garage is sought in relation to the 'classroom conversion'. If it is found that it relates to a dwelling that is so far out of kilter with the consent that in fact it represents a completely new build altogether then the scheme as a consequence would be seeking a domestic outbuilding, which does not relate to a primary use and therefore should be refused on that basis alone. At this time no decision regarding potential enforcement in relation to the 'conversion' has been made but if the building is considered to an unauthorised structure then this part of the proposed development would constitute inappropriate development comprising an outbuilding serving an unauthorised structure. If members agree with the officers recommendation then this matter need not be considered further, if members wish to approve the application then it is suggested that delegated authority be given to the Head of Development Services and Chair of Development Control Committee to take such steps as are appropriate following further advice from the Planning Enforcement Officer.

Curtilage defines an area of land in relation to a building and not a use of land. There is no all-encompassing, authoritative definition of the term curtilage. The Technical Guidance (Permitted Development for Householders: Technical Guidance 2019) defines "curtilage" for Part 1 purposes as land which forms part and parcel with the house. Usually, it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area.

Accordingly, officers consider that the protected wooded area as identified on the previously approved plans in related to the planning permissions 2009 and 2013 would not form curtilage to the host building Taxal Lodge where it is proposed to site plots 5, 6 and 7 and therefore cannot form previously developed land.

Officer Report Corrections and Additions:

Section 6, NPPF 2018, should be February 2019

Paragraph 7.13 includes the additional wording as underlined "*Of note, the proposed site plan for the 2009 and 2013 approved schemes shows a different footprint for the 'classroom conversion' to dwelling and a larger planning unit on the application proposal plan which falls outside of the red edge and is subject to a separate Planning Enforcement Investigation as stated above*".

s11A National Parks and Access to the Countryside Act 1949:

11A Duty of certain bodies and persons to have regard to the purposes for which National Parks are designated

(2) In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority [that's us] shall have regard to the purposes specified in subsection (1) of section five of this Act [ie conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.] and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.

The Peak District National Park boundary lies c.260 metres at its nearest point from the application site in the direction of Walker Brow to the southwest. The Peak District National Park Authority has been consulted on the scheme, however, has not responded to the Council to confirm its views on the proposed development. Despite this and as set out above, the Council has a duty to have regard to the purposes for which National Parks are designated as per s11A of the National Parks and Access to the Countryside Act 1949 detailed above. In consideration of these purposes, therefore, and subject to any submissions that may be received from the Peak Park, officers consider that the scheme would not affect the land in the National Park, including conserving and enhancing its natural beauty. Given the application has been with the Council for some time it is not proposed to wait for comments but the council would defer to the views of the Peak District National Park if any were received, therefore the recommendation gives delegated authority to add additional reasons for refusal if necessary with regard to outstanding Peak District National Park comments if any are received before decision is issued

HPBC Planning Policy:

Housing Mix

Policy H3 New Housing Development seeks to ensure an appropriate range and mix of new homes are provided including affordable housing. It states *"The Council will require all new residential development to address the housing needs of local people by..."*

a) Providing affordable housing in line with Policy H4 (this policy details criteria regarding affordable housing which include references to site size and number of dwellings)

"b) Providing a range of market and affordable housing types and sizes that can reasonably meet the requirements and future needs of a wide range of household types including for the elderly and people with specialist housing needs, based on evidence from the Strategic Housing Market Assessment or successor documents."

The policy clearly states it applies to all residential development.

The 2014 SHMA recommended a rebalancing of stock away small terraced housing and 3-bed properties towards 2-bed and stock to support the elderly population. Below is the property size and type recommended by the SHMA and the ward based census data with a calculation of the percentages of properties for Whaley Bridge ward. There is a shortfall in 1 and 2 bedroom properties and an excess of 4 and 5+ bedroom properties. Developments should aim to bring the housing stock closer to

the SHMA recommendations. However the SHMA recommended that a flexible approach should be taken to applying its recommendations for housing mix to take account of viability issues and local provision.

The Inspector in recent appeal decision on Bingswood Road, Whaley Bridge ref. HPK/2017/0254 considered the proposed development would be contrary to H3 in respect of housing mix as there was no firm evidence presented to support a housing mix which excludes 2 bedroom units which would deviate from the identified need in the SHMA. The Inspector acknowledged the SHMA indicated its requirements should not be rigidly applied and the housing requirements may have changed since 2014.

Consideration needs to be given as whether the evidence currently present by the applicant is sufficient to justify a housing mix that is contrary to the SHMA. The SHMA whilst it was prepared in 2014 is a comprehensive evidence based assessment of housing need in the Borough.

It is noted that the proposed development is for a modest number of dwellings 7 in total and the impact the development would have on the overall housing mix in Whaley Bridge is therefore likely to be limited.

2011 census merged ward	All categories: Number of bedrooms	1-bed	2-bed	3-bed	4-bed	5 or more bed
Whaley Bridge	2794	214	823	1024	535	198
% of housing stock	100%	7.7	29.5	36.6	19.1	7.1

SHMA recommendations	Property type and size
1-bed	10%
2-bed	45%
3-bed	35%
4-bed	10%
Semi-detached House	30%
Detached House	25%
Terraced House	15%
Flat / Maisonette	10%
Bedsit / Studio / Room Only	0%
Bungalow / Elderly Housing	20%
Caravan or temporary structure	0%

Comments submitted by the Planning Policy team in 2017 in relation to the Linglongs reserved matters application also highlighted concerns regarding the mix. However, it is understood that it was conceded that this could not be addressed as it had not been secured at the outline stage. As such, it is not the case that the same evidence now submitted to the Council in response to the application in question was supported previously.

The policy (H3) is clear that the housing mix requirements will be based on factors including the SHMA (Strategic Housing Market Assessment) or successor documents. There is no successor document and so the SHMA remains the most up to date and comprehensive assessment of need. Nevertheless, the scale of the development should be acknowledged and the information required in support of the application should be proportionate. The evidence provided by the applicant merely reflects likely market demand and local character rather than actual housing need but it would not be reasonable to expect the applicant to prepare a document of comparable detail to the SHMA for the scheme of this size.

Furthermore, even if the scheme were to rigidly adhere to the SHMA mix (which is not required by policy), 10% of the development would still comprise of 4/4+ bedroom dwellings. Given the scale of development proposed, the potential deficit of smaller properties arising from the scheme is limited when compared with the existing housing stock in the town and is unlikely to cause significant harm to the overall mix in isolation.

In view of the Planning Policy comments received, Officers, on balance, do not consider that the issues raised could be substantiated as a standalone reason for refusal in respect of Local Plan Policy H3 'New Housing Development'.

As a consequence, the recommendation to refuse the scheme as stated within the officer report stands.

Neighbour Representation:

Two separate representations have been received from the same objector, which are available in full on the public file on the Council's website and summarised as follows:

- Reference to the disclosure of the Counsel opinions as an intimidating tactic which rely heavily on the view of the applicant's agent without visiting the site
- It is alleged that Taxal Edge is being used as a House of Multiple Occupation whereby no planning permission has been granted.
- The Application falls outside the criteria to be adopted by the Council and should be refused.
- The reasons for refusing the application for 2 rather than 7 dwellings in 2015 remain valid to the Application.
- The houses in the Beech Rise Development will be overlooked if the development proceeds in its current form and there will be a significant invasion of their privacy
- The current access is neither suitable or owned by the Applicant and will present a serious hazard and issues to the traffic on Macclesfield Road.
- Disputes rights of access to Taxal Edge making reference to unauthorised works in relation to the widening of the access.
- Intensification of the public right of way used by walkers and an assumption that the school has access.
- There is no provision for affordable housing. This type of accommodation is not needed in the Whaley Bridge area where there is already a surplus of 4/5 bed accommodation and will only be bought by people from outside the area.

- The Application pays no/insufficient attention to the local wildlife.
- Taxal Edge was acquired by developers for profit. They took a commercial risk.
- They cannot comply with the Local Plan and should not be able to build beyond the footprint of the current location of the Taxal Edge building.
- Any current trend that there should be a presumption in favour of granting planning permission is more than outweighed by the above considerations.
- The Application should be refused and I will want to make representations to the Development Control Committee.

HPK/2021/0006 – Land across the road from 3 Silk Hill, Buxworth, Derbyshire

Officer Response: The applicant has submitted a supporting statement setting out the ongoing and intended activities, including small-scale horticulture, which the building is and will be used for, illustrated by more recent photos from the site. This is available on the webpage for the application.

HPK/2021/0040 – 142 Brown Edge Road, Buxton

No updates to report.