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Jane Colley,
Planning and Development Services
High Peak Borough Council,
Municipal Buildings
Glossop
SK13 8AF

6th April 2011

Your reference pp-01444017

Dear Mrs Colley

Re: Planning application in respect of engineering work at Edgemoor.

This letter supports the recently submitted application in respect of the above development and in accordance with the planning portal reference noted above.

I attach the application fee of £170 as calculated on the planning portal.

This application is submitted following a site visit in August 2010 made by council officers and subsequent meetings. It seeks to regularise matters and to honour a commitment given by the applicant to obtain permission for works they had undertaken in genuine ignorance of any planning implications.

The planning report is attached overleaf.

Yours Sincerely

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Land use Planning justification

Site: Land at the rear of Edgemoor.

Date note prepared 5th April 2010

Development and planning justification.

The works were undertaken in the summer of 2010. The work consisted of taking soil and earth from the sloping garden at the rear of Edgemoor and distributing this excavated material on farmland owned by the applicant. The garden was then re-profiled and the edge of the earthwork moved further away from the house.

The applicant undertook these works for the following reasons:

1 The land was underlain with an old cast iron water pipe. It had ruptured and water had risen to surface and had flooded the driveway and path at the rear of the house. This was unsatisfactory and needed to be remedied.

2 The driveway at the rear of the house was narrow and not suitable for use by motor vehicles or any larger service vehicles. Improving the access surface and width would improve the functionality and indeed setting of the main house.

3 The works offered an opportunity to retain the retracted bank edge with a hand built stone wall using both local stone and local skilled labour.

5 Remodeling the slope presented too an opportunity to cut in a bigger section and to allow for a a concrete slab and enclosing wall to serve as a location for a detached garage. Edgemoor, despite its size and standing, has no suitable garage for private cars.

1 The development undertaken

The work undertaken is the re-profiling of the sloping rear garden and the erection of a stone retaining wall.

The land where the engineering operation has taken place is and has been in the single ownership and part of the same property title for many many years. It lies very close to the house, indeed almost touching the house at its south western end. The applicant has used the site as part of their garden and has always considered it to belong to their curtilage. The fact that it had not been managed as an ornamental garden or lawn does not imply on its own that the site was not and is not curtilage land.

What matters is the ownership of the land, its use and function and physical layout. accordingly curtilage can have a wide definition.

In Lowe v FSS and tendering DC (2003) it the following definition of curtilage land was held:

''*The expression curtilage land is a question of fact and a degree. It connotes a building or piece of land attached to a dwellinghouse and forming one enclosure with it. It is not restricted in size, but it must be fairly be described as being part of the enclosure of the house to which it refers. It may include stables and other outbuildings, and certainly includes a garden, whether walled or not. It might include accommodation land such as a small paddock close to the house."*

The site in question is undoubtedly curtilage land evidenced by its ownership under single title together with the house, its proximity to the house, its lack of any enclosure that separates it from the house and fact that the applicant has enjoyed it and considered it to be a part of their garden. It is no less a part of the curtilage than the lawn and ponds that lie at the front of the house.

For these reasons it is not necessary to regularise the use of the land as residential curtilage.

2 Planning policy

Saved policies of High Peak Borough Local Plan

The following saved policies relating to materials and landscaping are considered appropriate to this application.

GD4 – CHARACTER, FORM AND DESIGN

Planning Permission will be granted for development, provided that:
Its scale, siting, layout, density, form, height, proportions, design, colour and materials of construction, elevations and fenestration and any associated engineering, landscaping or other works will be sympathetic to the character of the area, and there will not be undue detrimental effect on the visual qualities of the locality or the wider landscape.

GD6 – LANDSCAPING

Planning Permission will be granted for development provided that where appropriate, it will contain a high standard of hard and/or soft landscape treatment in keeping with the character of the area, including the integration of existing features and the use of native species suitable to the location.

Conditions will be imposed, and/or planning obligations sought, to ensure that appropriate steps are taken to maintain and manage landscaping features.

OC4 - LANDSCAPE CHARACTER AND DESIGN

Planning Permission will be granted for development considered appropriate in the Countryside provided that its design is appropriate to the character of the landscape. Appropriate design of development shall accord with the characteristics of the type of landscape within which it is located including having regard to and conserving:

- the landform and natural patterns of drainage;
- the pattern and composition of trees and woodland;
- the type and distribution of wildlife habitats;
- the pattern and composition of field boundaries;
- the pattern and distribution of settlements and roads;
- the presence and pattern of historic landscape features;
- the scale, layout, design and detailing of vernacular buildings and other traditional man made features.

Existing features which are important to the local landscape character, shall be retained, incorporated into the development and protected during construction work.

Where appropriate the Local Planning Authority will impose planning conditions and/or seek to enter into a planning obligation under section 106 of the Town and Country Planning Act 1990.

BC1 - EXTERNAL MATERIALS

Planning Permission will be granted for development, provided that:

the type, colour and specification of all external materials and the way they are applied will be sympathetic to the character and appearance of the immediate surroundings and the wider area

In particular, natural facing materials will be required in locations conspicuous from public viewpoints within areas conspicuous from the peak district national park and in conservation areas and their settings other areas where natural materials predominate.

The application submission satisfies all of these policy requirements and the development is compliant with these saved policies.

All planning applications and planning appeals should be determined in accordance with relevant planning policy. Section 38 (6) of Planning & Compensation Act 2004 relevant specifically requires the following.

"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Accordingly and in the absence of any material planning issues to the contrary there is considered no sound land use planning objection to the engineering works proposed with this application.

3 Landscape and design comment

The application is supported by a landscape statement. Officers had requested the same together worth a landscaping plan to show the development potential once work was completed and the site had been landscaped.

A report by Mrs E Hill, a Chartered landscape architect supports this application.

Her report confirms the richness of the soil and its suitability in landscaping terms as an area of woodland under-canopy. In accord with this the site is to be planted with indigenous bulbs and wildflowers to 40% of the slope with understorey shrubs to the balance of the site.

The landscaping will soften the bare earth rather quicker than nature would do so but the use of wholly appropriate and local alkaline soil tolerant species ensures a suitable and attractive appearance to the site once the landscape work has been completed.

The stone wall has been undertaken to the highest quality and there can be no planning objections to its appearance.

4 Officer meeting and advice

A meeting with Mrs Colley and Mr Darling took place on 3rd March at the council offices. It was agreed that a full application for engineering work ought to be made. It was requested too that the application be supported by a detailed levels survey, accurate drawings and detailed landscaped plan. The application does indeed include all of the items.

5 Conclusion

The application is carefully prepared. It shows a scheme of the highest landscape quality and the use of suitable and attractive local materials. The development accords with the ‘saved’ policiers of the High Peak Local Plan.

For these reasons there are no sound planning reasons to object to the application.