

**Appeal relating to the refusal of
outline planning permission for
up to 28 dwellings, site access,
highway works, landscaping
and associated works**

**At: 141 Manchester Road,
Chapel-en-le-Frith**

STATEMENT OF CASE

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1 INTRODUCTION

1.1 Planning Design Practice is a town planning and design consultancy consisting of chartered town planners and an architectural design team. The author of this statement, Richard Pigott, joined Planning Design from the public sector, having worked as a planning officer in local government at both Macclesfield Borough Council in Cheshire and Royal Borough of Windsor & Maidenhead Council in Berkshire. He has extensive knowledge and experience of the planning system and has been a member of the Royal Town Planning Institute as a chartered town planner since 2009.

1.2 This statement has been prepared on behalf of the appellants to accompany the appeal against High Peak Borough Council's refusal of planning application ref. HPK/2014/0263 relating to development of land at 141 Manchester Road. The planning application was submitted in outline form, with only the principle of development and the access to the site for full approval at that stage. Matters of layout, scale, appearance and landscaping were reserved for later detailed approval. Vehicular access would be via a new access road running parallel to the site's western boundary in a location broadly similar to the existing access to the dwelling.

1.3 The application was accompanied by a number of documents as follows:

- Site location plan;
- Indicative site layout plan;
- Planning Statement;
- Design & Access Statement;
- Draft Section 106 agreement;
- Highway Statement;
- Phase 1 Habitat Survey And Protected Species Assessment Report;

- Tree survey report;
- Tree protection plan;
- Tree schedule;
- Tree survey work schedule.

1.4 It is not proposed to repeat in detail the contents of the above documents. Rather, this statement will concentrate on addressing the Council's reasons for refusal.

2 THE COUNCIL'S DECISION

2.1 The application was refused for the following reasons:

"1. The proposed development, in principle, would be an urban form of backland development which would conflict with the overall settlement pattern of this area. Such development would be materially harmful to the character of this part of the countryside contrary to the provisions of Policies GD4, OC1, OC4 and OC5 of the Saved High Peak Local Plan Policies 2008 and Paragraphs 17 and 109 of the National Planning Policy Framework which seek to protect the character of an area and its valued landscape characteristics.

2. The adverse impacts of granting planning permission for this environmentally harmful development would significantly and demonstrably outweigh the limited social and economic benefits of the development when assessed against the policies in the National Planning Policy Framework taken as a whole. The proposal is not sustainable development for which there is a presumption in favour."

3 PLANNING POLICY CONTEXT

Relevant planning policies

- 3.1** It is important to examine the policies relied upon by the Council in its reasons for refusal. Clearly, as the Council acknowledges, in the absence of a 5 year housing land supply, Policy OC1 of the High Peak Local Plan cannot be used as a housing restraint policy. Policies GD4, OC4 and OC5 broadly reflect the thrust of the Framework which in its core principles at para. 17 and in chapter 11 'Conserving and enhancing the natural environment', recognises the need to protect the intrinsic character and beauty of the countryside. However, their wording is more restrictive than the balanced approach set out in the Framework and on this basis the policies should be afforded only 'some' rather than 'full' weight in assessing this appeal.

The Emerging Local Plan

- 3.2** The council does not seek to rely on emerging Local Plan policies as part of its reason for refusal. However, it is necessary to consider whether the weight to be attributed to emerging policies will change over the next few months.
- 3.3** The emerging Local Plan was submitted to the Secretary of State on 28th August 2014. Dates have yet to be confirmed for the examination hearings on the Local Plan. In the emerging plan Chapel-en-le-Frith is identified in it as a sustainable location for housing growth. Policy S3 sets out a requirement for at least 7,200 dwellings over the period 2011-2031 at an overall average annual development rate of 360 dwellings. It should be noted that the figure of 360 dwellings per annum (d.p.a.) is a constrained figure (i.e. below the most recent fully objectively assessment of need of 420-470 d.p.a.) to reflect environmental factors including the extent of the Green Belt, landscape character and infrastructure. This is to be met through large sites allocated in policy H3 and in the Chapel-en-le-Frith Neighbourhood Plan and from small sites (including 100 dwellings in Chapel-en-le-Frith). For the Chapel Neighbourhood Plan a minimum of 850 dwellings should be delivered over the plan period in addition to the small sites allowance but this may be exceeded to help meet the needs of the Borough.
- 3.4** Clearly, if the overall housing target increases, the figure of 850 dwellings is also likely to increase. An increase from 360 to 445 dwellings d.p.a. (the midpoint between 420 and 470)

would amount to a 23.6% increase. If such an increase were applied to Chapel the neighbourhood plan figure would increase to 1,051 houses. For this reason, the overall housing figure can only be attributed very limited weight as it has not yet been subject to scrutiny at the examination in public and is the subject of unresolved objections.

The Emerging Neighbourhood Plan

- 3.5** The appeal site, along with adjacent land to the west, east and northeast, is subject to a proposed Local Green Space (LGS) designation in the emerging Chapel Neighbourhood Plan, which is being produced on behalf of Chapel-en-le-Frith Parish Council by Chapel Vision – a volunteer group of local residents from across the Parish. The council does not seek to rely on any emerging neighbourhood plan policies as part of its reason for refusal. However, it is necessary to consider any relevant emerging policies. The consultation period on the draft plan ran from 2nd October to 13th November. High Peak Borough Council has advised that it does not expect to have appointed an Examiner by the beginning of December with a note on his/her findings expected in January/February. If, as expected, the examiner makes recommendations for changes to the Plan they will then be considered by High Peak and the Peak Park Planning Authorities. Given that there is a General Election in May, the subsequent referendum to this period of consultation and examination will not occur until after the General Election and most likely will be in June or July 2015.
- 3.6** The appeal site is included in Table 1: ‘Table of proposed Local Green Spaces (LGS)’ on page 33 of the Examination Version of the emerging neighbourhood plan. It has the reference number LGS 24: ‘Land South of Manchester Road’ and the reason stated for the designation is “Character and views from Manchester Road and important footpaths to the south; wildlife buffer.” Both Table 1 and the map indicating the location of the proposed LGS (at Figure 4 on page 35 of the Examination Version) are included at Appendix A. As the map in Figure 4 lacks clarity, the map below is provided to give a clearer indication of the extent of the proposed LGS and the location of the appeal site within it. The source of the map is the Complete List of Local Green Spaces which forms part of the evidence base to the neighbourhood plan.

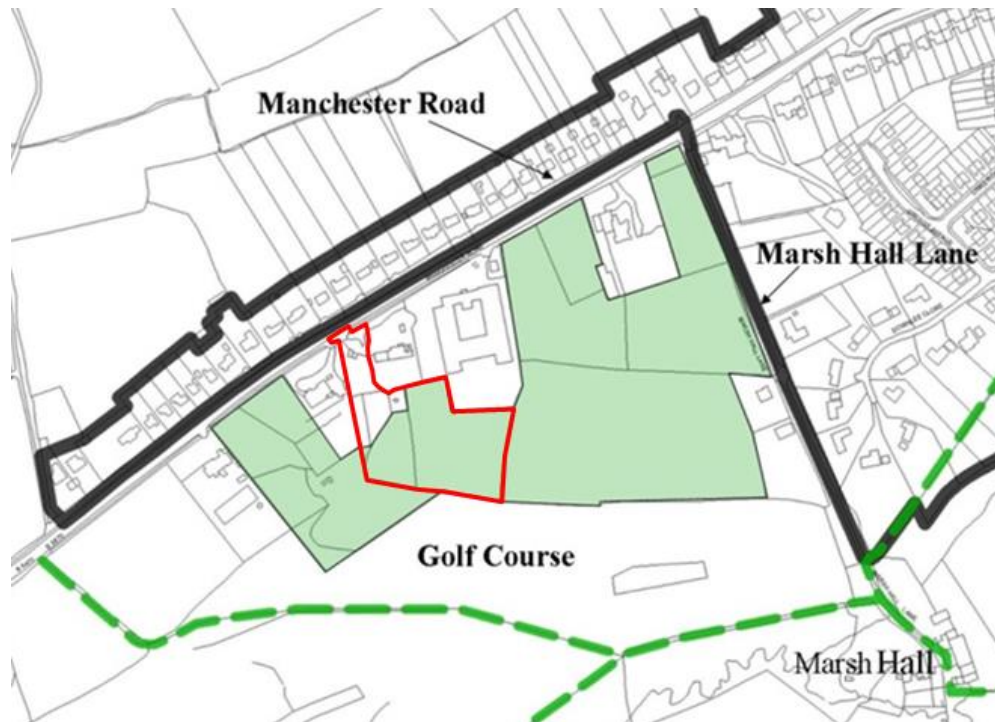


Figure 1 – Plan showing proposed LGS 24 designation (appeal site is edged in red)

- 3.7** The Framework, at para. 77, clearly sets out the circumstances in which land may be designated as LGS, advising as follows:

The Local Green Space designation will not be appropriate for most green areas or open space. The designation should only be used:

- *where the green space is in reasonably close proximity to the community it serves;*
- *where the green area is demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and*
- *where the green area concerned is local in character and is not an extensive tract of land.*

- 3.8** The appellants have submitted a formal objection to the neighbourhood plan in the recent consultation which ended on 13th November. A copy of this is included at Appendix B. The reasons for the objection are numerous and are summarised below.

General objections to the plan

- The neighbourhood plan would only run for 13 years from adoption, at odds with the Framework that requires plans to run for at least 15 years from adoption. Also at odds with the High Peak Local Plan which proposes to run from 2011 to 2031;
- Conflict between proposed policy H1 and the Local Plan, as pointed out by the inspector appointed for the examination of the local plan, in the note appended to his letter of 16th October;
- Given the importance of boosting housing supply, the re-consultation on the Neighbourhood Plan should have taken into account the full findings of the SHMA to ensure that the correct housing provision is planned for in Chapel-en-le-Frith;
- Numerous policies in the plan have not been supported by an up to date robust evidence base and in the main are made up of unsupported opinion;
- Significant flaws in the consultation process.

Specific objections to LGS 24

- The area shown on the map does not reflect the various and varied constituents that it is comprised of. The land is in at least 5 different ownerships and includes two separate gardens which are not open to the public;
- The land owned by the appellants is well screened from the wider area and makes negligible 'public' or landscape contribution to the area. As a private garden it 'serves' only the residents of 141 Manchester Road and cannot be considered to be 'demonstrably special' or 'hold particular local significance'. Furthermore, the text beneath Table 1 states that "It is not intended that domestic gardens will be included as Local Green Space. Every effort has been made to draw the map accurately to ensure that domestic gardens are excluded."

- Figure A1.2 in the Countryside Evidence Document 1, Revised April 2014, reproduces a Map that was used by local residents at consultation events to identify areas they felt had some special value. No residents identified the appeal site;
- The site is not a "wildlife buffer". No significant Flora or Fauna were identified in the ecological survey carried out in May 2014 to justify any special protection;
- Given the recent approval of residential development on a substantial (and the only prominent) part of LGS 24 at 129 Manchester Road (details at Appendix C) its continuing inclusion as a Local Green Space seems futile.

3.9 In light of the above it is clear that the proposed LGS designation does not comply with para 77 of the Framework. The site holds no particular local significance in the terms defined in the Framework, meaning it is highly likely to be deleted from the proposed LGS designation. The proposed designation therefore cannot be given significant weight in this appeal.

3.10 In terms of the weight to be given to the neighbourhood plan as a whole, as with the Local Plan, the overall housing figure of 850 dwellings can only be attributed very limited weight as it has not yet been subject to scrutiny at the examination in public and is the subject of unresolved objections.

4 MAIN ISSUES

Principle of development

- 4.1** It is common ground that the Council cannot currently demonstrate a 5 year supply of deliverable housing land. Although the precise level of shortfall is unclear it is said to be around 3 years. In these circumstances, the Framework advises that relevant policies for the supply of housing in the development plan cannot be regarded as up-to-date.
- 4.2** The unmet need for additional housing becomes a consideration of substantial weight in the appeal, particularly given the very significant shortfall that exists. In accordance with guidance in the Framework, the appeal proposal must be assessed in the context of the presumption in favour of sustainable development contained at para. 14 of the Framework. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
- 4.3** The main issue is therefore whether, in the absence of a five year supply of deliverable housing land, the proposal would amount to a sustainable form of development in accordance with national and local policy, having particular regard to the effect on the overall settlement pattern of the area and its valued landscape characteristics.

Impact on the settlement pattern

- 4.4** The reason for refusal states that the proposal would amount to an “urban form of backland development which would conflict with the overall settlement pattern of this area.” The committee report expands on this, stating that the “predominant character to the south of Manchester Road is of large detached buildings set within very spacious plots” and that “the linear pattern of development to the north of Manchester Road results in a more urban character, form and setting”. However, the report does acknowledge at para. 16 that the proposed development will have a limited impact on the existing character and street scene of Manchester Road.
- 4.5** Development will inevitably have some localised urbanising effect. However, the same can be said of the very recently permitted scheme at 129 Manchester Road where a higher density scheme has been approved. In seeking to differentiate the two schemes, the committee

report states that 129 Manchester Road “was surrounded by built development on three sides” whereas the appeal site “only has built development on one side of it”. This comment does not stand up to scrutiny as there is built development to the north and west of the appeal site.

4.6 The committee report also states that “The sylvan character of this area contributes significantly to the rural character and appearance of the locality”. The appellants do not contest this statement and would point out that the site enjoys better screening than the land adjacent to 129 Manchester Road and is less conspicuous in views from the south. Furthermore, the important trees around the periphery of the site will be protected as part of the detailed proposals for the site. It is worth highlighting the fact that the Tree Officer did not object to the proposal whereas, in relation to 129 Manchester Road, she did comment that there would need to be a significant reduction in the number of dwellings for any detailed scheme to be acceptable in relation to the protection of existing trees on site and also a need to provide sufficient additional landscape enhancement to make a detailed scheme acceptable.

4.7 The council advise in the committee report that in the January 2014 Landscape Impact Study commissioned as part of the evidence base for the emerging Local Plan, the site is identified as one which ‘could not accommodate development in landscape terms’. However, the report acknowledges the strategic nature of the assessment which will limit the weight that can be attached to it when determining planning applications. Furthermore, the recently approved site at 129 was categorised in the same way but, nevertheless, planning permission was granted. Until the Landscape Impact Study has been subject to examination in public it is considered that the weight that can be attributed to the Landscape Impact Study in the determination of this appeal is negligible.

Visual and landscape impacts of the proposal

4.8 The council makes much of the impact on the wider landscape, particularly on viewpoints located to the south of the appeal site from the Public Rights of Ways on the hillside and Peak District National Park. It also contrasts this with the impact of the approved development at 129 Manchester Road. In order to help address these concerns a Landscape and Visual Impact Assessment (LVIA) has been prepared. This uses a recognised methodology to assess the

impact of the proposal from a number of representative viewpoints within the landscape as well as specific locations where necessary.

- 4.9** Landscape Assessments, and Visual Impacts Assessments are, although closely linked, separate processes. The findings of the LVIA are summarised below.

Visual Impacts

- 4.10** The LVIA concludes that each of the 11 representative viewpoints assessed will potentially experience a 'Minor Adverse' visual impact.
- 4.11** In addition, the consideration of viewpoints in close proximity to the site and from the valley in general at section 8 of the LVIA means that it is reasonable to conclude that the proposed development would have no significant negative visual impact on views from within the landscape in general.

Landscape Impacts

- 4.12** The potential impact the proposed development may have on the local landscape character type, as defined by the Derbyshire Landscape Character Assessment, was also assessed.
- 4.13** Given the presence of the Peak District National Park within the identified study area, the LVIA also considers the impacts on a more broadly defined landscape area. Although the national park is undoubtedly a highly sensitive landscape environment, the separation distance between viewpoints within it and the site (approximately 1.6km) results in the site itself, and therefore any two storey residential development, being almost indiscernible to the naked eye. With such an insignificant visual impact, the potential for landscape impacts on the national park, and indeed on more distant viewpoints within the Settled Valley Pastures landscape, is extremely limited.
- 4.14** The LVIA concludes that as result of the proposed development there would be a 'Minor / Negligible Adverse' impact on landscape character.

Summary

- 4.15** When considering the modest scale of the proposed development, it is reasonable to conclude that the visual and landscape impacts of the proposal would not be significantly detrimental overall.

The delivery of affordable housing and other public benefits

- 4.16** The appellants submitted a draft agreement pursuant to Section 106 of the Town and Country Planning Act 1990 during the course of the planning application. The finer details of the agreement were not agreed with the Council once it became clear that the application would be recommended for refusal. However, the agreement will commit the appellants or their successors in title to:

- 30% of the total number of units for affordable purposes;
- a contribution towards Off-Site Children's Play Equipment; and
- a contribution towards Secondary education which the applicants have indicated they would have no objections to.

- 4.17** The committee report confirmed that the contributions will meet the requirements of the Planning Obligations SPD and Local Plan Policy. A certified copy of the legal agreement will be submitted to the Planning Inspectorate no later than 7 weeks from the starting date of the appeal.

Other matters

- 4.18** Vehicular and pedestrian access to the site is from Manchester Road. The Transport Statement demonstrates that this will not harm the safe operation of the local road network in accordance with Saved Local Plan Policy TR5 and Framework. The Highway Authority raise no objections to the site being served via a simple priority junction with Manchester Road.
- 4.19** There will be ample separation between the site access and 143 Manchester Road to ensure no loss of amenity to the occupants of this property. No. 143 will also retain a sizeable amount of garden space both to the front and rear of the property, thus ensuring a good

living standard for future occupants. With regards the amenity of future occupants of the new houses, the application is in outline form with details of layout reserved for subsequent approval.

5 CONCLUSIONS AND PLANNING BALANCE

5.1 The Framework seeks to boost significantly the supply of housing. There is no dispute that the Council's five year supply is lacking. Recent evidence on the objective assessment of housing need for the emerging Local Plan suggests that the future housing requirement is likely to be greater than that set out in the now cancelled Regional Strategy. The contribution to meeting the considerable shortfall in supply therefore lends substantial weight in support of the proposal.

5.2 The site is within walking distance of the services and amenities that Chapel-en-le-Frith has to offer and the town itself is a sustainable settlement. Whilst the site layout plan is indicative, it shows how a scheme for up to 28 dwellings could be sited on the plot without detriment to the character and appearance of the area and the protected trees on site. The LVIA concludes that the visual and landscape impacts of the proposal from public viewpoints to the south (some of which are in the Peak Park) would not be significantly detrimental overall. There are no other significant issues from a planning perspective.

5.3 Paragraph 14 of the Framework calls for decision takers to approve development which is consistent with the development plan without delay and to grant planning permission unless the harm of doing so would significantly and demonstrably outweigh the benefits. In this case, the application proposals comprise sustainable development in accordance with the definition set out in the Framework and when tested against all of the relevant sections of the Framework. The planning balance is considered below.

Harm Arising from the Development

5.4 The application was accompanied by a suite of supporting information, which demonstrates that the proposal will not result in significant harm in terms of amenity, community, heritage, environmental, traffic, technical or other acknowledged public interests.

- 5.5** The LVIA concludes that each of the 11 representative viewpoints assessed will potentially experience a 'Minor Adverse' visual impact and that there would be a 'Minor / Negligible Adverse' impact on landscape character. The overall visual and landscape impacts of the proposed development would not therefore, be significantly detrimental and need to be considered against the benefits arising from the development.
- 5.6** The construction stages of the development may have some effects which are short term, temporary in nature, and local to the site and immediate area. In any event best practice measures will be put in place to mitigate any adverse temporary impacts in terms of noise, the operation of construction traffic, plant and machinery or the management of any other related disturbance or nuisance. This is likely to include controls on working hours and dust suppression measures.

Benefits Arising from the Development

- 5.7** The benefits of the scheme include:

Social

A deliverable housing site which will make a valuable contribution to High Peak's 5 year housing supply shortfall which is considerable at this moment in time. The provision of 8 units of affordable housing would also help to address an identified need. These are matters to which significant weight should be attributed;

Environmental

This is a sustainable location for new housing. Chapel-en-le-Frith is identified as a sustainable location and the site is in close proximity to a range of services and facilities that the town has to offer, reducing reliance on the car. Furthermore, the retention of existing trees which contribute to the amenity and landscape character of the area is an environmental benefit as the proposals are based around the existing landscape features of the site, and seek to integrate them successfully into the overall design;

Economic

The employment generated during construction and by the addition to the local economy of the spending power of future residents, to which moderate weight should be attributed.

Summary

- 5.8** On balance, any minor environmental harm as a result of the visual and landscape impacts of the proposal would not significantly and demonstrably outweigh the benefits of the development. In accordance with the Framework, the proposal must be regarded as sustainable development to which the presumption in favour applies.
- 5.9** It is therefore concluded that the appeal should be allowed and outline planning permission granted subject to the conditions listed below.

6 SUGGESTED CONDITIONS

6.1 Should the Inspector be minded to allow the appeal, the appellants considers that the conditions listed below should be attached:

1. The development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved, whichever is later.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this planning permission.
3. Approval of the details of layout, scale, appearance and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.
4. The approved development shall not be occupied until visibility splays of 2.4 metres x 82 metres in each direction have been laid out, the area in advance of the sightlines being maintained for the life of the development clear of any object greater than 1m in height (0.6m in the case of vegetation) relative to adjoining nearside carriageway channel level.
5. Before any other operations are commenced, space shall be provided within the site curtilage for the storage of plant and materials/ site accommodation/ loading and unloading of goods vehicles/ parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with details to be submitted in advance to the Local Planning Authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.
6. The dwellings, the subject of the application, shall not be occupied until the proposed new estate streets within the application site have been designed and laid out in accordance with the County Council's current design guide and constructed to adoptable standards all as agreed in writing with the Local Planning Authority.
7. The premises, the subject of the application, shall not be occupied until space has been provided within the site curtilage for the parking/ loading and unloading/ manoeuvring of

residents/ visitors/service and delivery vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

8. The development hereby permitted shall not be commenced until such time as a scheme to limit the surface water run-off generated by the proposed development has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements that are to be embodied within the scheme.
9. Prior to the commencement of development a scheme for the treatment of foul drainage for the site shall be submitted to and approved in writing. No surface water shall discharge to the public sewerage system either directly or indirectly. The development shall be completed, maintained and managed in accordance with the approved details.
10. No development or other operations shall commence until a detailed Arboricultural Method Statement to include a scheme for the retention and protection of trees and hedges on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Method Statement.

7 LIST OF APPENDICES

- Appendix A – Details of the proposed Local Green Space 24 designation
- Appendix B – Appellants’ formal objection to neighbourhood plan
- Appendix Ci – 129 Manchester Road decision notice
- Appendix Cii – 129 Manchester Road site layout plan
- Appendix Ciii – 129 Manchester Road committee report