

**HIGH PEAK BOROUGH COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY MR & MRS TB LAWTON FOR REFUSAL OFF FULL PLANNING  
PERMISSION FOR RESIDENTIAL DEVELOPMENT AT BIRCH HOUSE, BIRCH  
VALE, NEW MILLS**

**PLANNING INSPECTORATE REFERENCE: APP/H1033/W/16/3147202**

**LOCAL PLANNING AUTHORITY REFERENCE: HPK/2015/0283**

**LPA STATEMENT OF CASE**

## **1. References**

1.1. Planning Inspectorate Reference APP/H1033/W/16/3147202

1.2. High Peak Borough Council: HPK/2015/0283

## **2. The site and its surroundings**

2.1. The appeal site is located outside built up area of New Mills and sits between the villages of Birch Vale and Thornsett. It lies within open countryside and the designated North West Derbyshire Green Belt, adopted December 1990. The site area is identified as 0.405 hectares. The whole of the site is heavily screened with trees and vegetation and is protected under High Peak Borough Council Tree Preservation Order No. 52 and No. 102, identified as woodland.

2.2. Access to the site is located off a steep private access track from an existing gated access off Spinnerbottom as well as directly adjacent to Quarry Road. The access track bends and then levels to the top of the site where the main buildings are sited. The proposed site also includes a piece of triangular land directly opposite the former public house, now a bed and breakfast facility which also serves Quarry Road. A stone retaining wall runs alongside Spinnerbottom and Quarry Road adjacent to the access road and also provides an embankment to support the roadway, trees and vegetation which run along the highway edge of Spinnerbottom and the sloping topography of Quarry Road. The wall is a distinguishing frontage along Spinnerbottom and positively contributes to the amenity and rural character of the area.

2.3. Once on the site there are a number of buildings, including a chalet, barn and existing rural structures including stables. The main buildings are of an unattractive nature and comprise in two parts, mainly identified within a compound area with further associated structures, hard standings and fixtures. The area itself is predominantly woodland and farmland however adjoining the site boundary to the bottom of the access along

Spinnerbottom and residential properties with gardens abutting here and also Quarry Road which also consist of residential properties.

- 2.4. The established lawful use of the site is a licensed carcass and incinerator disposal centre (abattoir and knackers yard). The applicant at the time of the application submission advises that the site has not been in significant active use for a number of years although there was no clear evidence provided to confirm the exact date other than that of the year 2008. The Council has been aware of a number of rural activities at the site while not in use as an abattoir and has previously investigated matters relating to residential occupancy of the existing residential structure being used as a permanent dwelling.

### **3. The Application**

- 3.1. The application under planning reference number HPK2015/0283, the subject of this appeal sought full planning permission for residential development of 3 detached dwellings. The application was valid on 25<sup>th</sup> June 2015, supported by a number of documents and plans. It was refused planning permission on 29<sup>th</sup> September 2015 by the Councils Delegation Scheme (Decision Notice at Appendix 1). The application is a further submission for residential development at the site following a long planning history since 1989. The last application at the site was for outline residential development in 2012 under planning application reference HPK/2012/0292 which was refused (Decision Notice at Appendix 2) and dismissed on appeal (Appendix 19).
- 3.2. Prior to this two further applications for residential at the site were submitted with one being refused and one withdrawn for similar proposals under planning application reference HPK/2011/0101, refused on 23<sup>rd</sup> May 2011 (Decision Notice at Appendix 3) and HPK/2010/0350 which was withdrawn 22<sup>nd</sup> September 2010. The site has also been the subject of two dismissed appeals (Appendix 5 and Appendix 19).
- 3.3. The application also includes further land shown outlined in red and also blue to indicate ownership as it is proposed to modify the triangular piece of land directly opposite the former public house, now a bed and breakfast

facility which also serves Quarry Bank to facilitate visibility for access. There is no evidence as part of the application that would suggest that the appellant does or does not own all this land. However there are possible implications for the adjoining roadway for Quarry Bank residents and the right and modifications of this access road.

3.4. The Council's consultation process involved specific consultations with Derbyshire County Council (Highway Authority), Derbyshire Wildlife Trust, Natural England the Council's Environmental Health Officer, Arboricultural Officer, Planning Policy Officer. In addition, neighbour consultations were carried out with local residents. Responses to the consultation and notification processes accompanied the appeal questionnaire.

3.5. Planning permission was refused for the following reasons:

- 1) *"The proposed development is an inappropriate form of development within the Green Belt, which by definition is harmful, and for which no special circumstances have been demonstrated. As such the development fails to comply with Policy OC2 of the High Peak Saved Local Plan Policies 2008 and Paragraphs 79, 80, 87, 88 and 89 of the National Planning Policy Framework".*
- 2) *"The proposed development would have a detrimental impact on the character and distinctiveness of the countryside and injure the visual amenities of the Green Belt. The design, appearance, layout and associated residential paraphernalia would result in the domestication and urbanisation of this area of open countryside and would introduce an isolated residential development setting a precedent for further residential development within the locality. It would therefore be contrary to policies OC1, OC2, OC4, GD4 and H11 of the High Peak Saved Local Plan and the provisions contained within the National Planning Policy Framework."*
- 3) *"The proposed residential development would lead to the threat and longevity to the continued health and well being of protected trees, contrary to policy OC10 of the High Peak Saved Local Plan and the provisions contained within Section 11 of the National Planning Policy Framework."*

- 4) *"Notwithstanding the information which has been submitted to accompany the application, insufficient evidence has been submitted for the proposed development which demonstrates that an alternative mixed use development for the whole site has been considered or that it can be clearly demonstrated there is no market demand for the site as a continued employment use. The proposed development would therefore conflict with the principles of sustainability and the green belt, and would not bring a greater benefit to area than the retention of the existing use, as such it would be contrary to policy EMP9 of the High Peak Saved Local Plan 2008 and guidance within the National Planning Policy Framework."*

#### **4. Planning History**

- 4.1 The site has a long and varied planning history mainly relating to the abattoir and the siting of the bungalow for use by the business these are all detailed below, however it is considered that not all the history is relevant or holds weight to the determination of this appeal,
- Application No. HPK/0000/5955 was for a prefabricated bungalow or living van to accommodate employee, approved 1977.
  - Application No. HPK/0000/9075 was for the siting of a mobile bungalow, approved 1978.
  - Application No. HPK/0002/1701 was for the portable bungalow renewal consent, approved 06/11/1984 and also subject to a S52 agreement relating to occupancy restriction to employees of the business.
  - Application No. HPK/0002/7942 – Outline application for the erection of 5 new dwellings and the rebuilding of the existing chalet bungalow together with access, withdrawn 24/06/1989. This application was called in by the Secretary of State and was subsequently dismissed at following an inquiry on 03/12/1991. This is addressed at paragraph 4.2 of this statement.
  - Application No. HPK/0002/7968 was submitted as two alternative applications, (1) being for 18 houses and the other (2) as a residential development. Application (1) was withdrawn and therefore application (2) was dealt with as residential development for seven detached houses with garages and roadways, and was refused, 30/06/1989. (Appendix 4)

- Application No. HPK/0003/1893 and was submitted for an increase in floor area from 325sqm to 420sqm by an extension and alteration of existing buildings and facilities as required by directive EEC 91/497, approved 04/11/1992.
  - Application No. HPK/0003/1902 was submitted in relation to the above application and was for extension & alterations to existing knackers yard & carcass processing centre to comply with directive, incorporating by product incineration, it was subsequently withdrawn 1993.
  - Application No. HPK/0003/2338 was for a carcass processing centre and was approved 19/04/1994.
  - Application No. HPK/0003/3337 and was for a change of use of existing incinerator facility to include clinical wastes and associated wastes (Derbyshire County Council Application CW1/294/119) the Authority was only a consultee on this application and was recommended refusal, it was refused, 29/04/1994.
  - HPK/2010/0350 - Outline application for proposed residential redevelopment of 6 detached dwellings. The application was withdrawn 22/09/2010.
  - HPK/2011/0101 – Outline application for proposed residential redevelopment. The application was put before the Development Control Committee on 23 May 2011 and was refused on five reasons. (Attached at Appendix 3).
  - HPK/2012/0292 – Outline application for proposed residential development. The application was refused on 19<sup>th</sup> September 2012 (Attached at Appendix 2). It was subsequently dismissed on appeal (Attached at Appendix 19).
- 4.2 The Application HPK/0002/7942 was called in by Secretary of State and was the subject of an Inquiry because the proposed development would constitute a departure from Green Belt policies in the approved development plan for the area. The decision of the Secretary of State was to refuse the application by letter dated the 3 December 1991. The Inspector concluded that the

proposed development would result in an urbanisation of the area and erode this narrow area of Green Belt. Whilst the existing buildings are unattractive their removal does not qualify as part of the very special circumstances required to justify the proposal. The decision is attached at Appendix 5. In regards to the weight if this decision there has been a significantly change in policy since 1991, which was some 25 years ago, especially in regards to the development plan for the area and the introduction of the National Planning Policy Framework. The Authority within this statement makes reference to material considerations that may be of a similar nature to those addressed also in 1991.

- 4.3 The application HPK/2012/0292 was dismissed on appeal (Appendix 19) of which the Inspector found that it was not demonstrated that the site had no market demand or viability information submitted. The Inspector concluded that residential development would be harmful to the character of the area and harmful to the Green Belt. Furthermore that residential development would amount to inappropriate development and that no very special circumstances had been demonstrated.
- 4.4 In terms of pre-application advice, the Authority on numerous occasions in the past prior to this application the subject of the appeal, provided comprehensive advice to the appellant and has maintained its stance in regards to any redevelopment of the site. With regards to the history of pre-application advice a meeting took place with the appellants former planning agent in 2010 (minutes at Appendix 6) which highlighted the main issues of those applications, policy and material considerations. This meeting involved a Planning Officer, the Councils Aboricultural Officer and a County Council Highways Officer. Following this further detailed advice has been given to the appellant through numerous correspondences (this is referenced and attached at Appendix 7A, 7B, 7C).
- 4.5 The Authority has maintained throughout this process and 2010 the scheme for residential development at the site is unlikely to be supported. It is considered that the Appellant has not taken on board the issues raised by previous meetings / correspondence and reasons for refusal over the long course of trying to develop the site to residential. It furthermore adds that there has been a continuing interest in within the site for employment use and

the Authority considers the Inspector should be made aware of the ongoing discussions and advice given prior to the appellant appointing the agent on this application, the subject of this appeal.

## **5. The Proposal**

- 5.1. The proposal the subject of this appeal is for full planning permission for a residential development consisting of three detached dwellings. This proposal is an amended scheme to the previous submissions by further reducing the proposed number of dwellings. Previously in the HPK/2012/0292 this was proposed for outline consent for five and under reference HPK/2011/0101 and HPK/2010/0350 were submissions for outline for six houses.
- 5.2. The development consists of areas containing the various existing building groups be occupied by the proposed new dwellings. The dwellings would be 5 bedrooms and consist of integral garages with residential curtilages. Vehicular access is to be taken by means of the existing private access way which adjoins Spinnerbottom with alterations to provide a number of passing places due to its restrictive width and visitor parking on the access track. The application proposed a woodland management plan and landscaping throughout the site, however no specific detailed information was submitted accompanying the application on the woodland management plan.
- 5.3. There is also a proposed piece of land adjacent to the existing access that would be modified in order to create and improve visibility. This is a triangular piece of land which also serves Quarry Road this involves the removal of a large tree and alterations to the existing stone wall.

## **6. Development Plan Policies and NPPF**

- 6.1. It is considered the following policies and advice are relevant to the determination of this appeal.
- 6.2. 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. 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."

- 6.3. The application was determined under the High Peak Saved Local Plan 2008 which was adopted in 2005 under the transitional arrangements in the 2004 Act and in line with the requirements of the 1990 Town and Country Planning Act. The relevant local plan policies were saved in 2008. Nonetheless this Local Plan was not adopted in accordance with the Planning and Compulsory Purchase Act 2004, accordingly paragraph 215 of the Framework applied whereby due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.
- 6.4. At the time of the application due weight was also given to the Emerging Local Plan policies in accordance with the provisions of Framework. The determination of the application is set out within the Officers Report (Appendix 8).
- 6.5. The High Peak Local Plan (2016) has been the subject of examination since 2014 and following the recommendations made by the Inspector (Appendix 9 and 10) (as part of main modifications (Dec 2015-Jan 2016) (Appendix 11) and was adopted at Full Council on 14<sup>th</sup> April 2016. The Adoption Statement is attached at (Appendix 14) and those additional modifications at (Appendix 12).
- 6.6. The policies within the High Peak Local Plan 2016, including the modifications, now attract full weight in decision making. The saved policies from the previous local plan have been superseded by the newly Adopted Plan. Appendix 3 of the new plan shows which new policies should now be used to replace the previous saved policies. As such this forms the Development Plan and forms policies for the determination of this appeal. (This is attached at Appendix 13). The High Peak Local Plan (2016) is publically now available on the Councils website,

<http://www.highpeak.gov.uk/hp/council-services/the-high-peak-local-plan/high-peak-local-plan-examination> a full hard copy can be forwarded to the Inspector if required / provided as part of the hearing.

6.7. The following policies from the High Peak Local Plan (2016) are now relevant to this appeal and replace those Saved Local Plan Policies (reference is made to policy number changes from the main modifications):

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S4 Maintaining and Enhancing an Economic Base
- S6 Central Sub-area Strategy
- EQ1 Climate Change
- EQ2 Landscape Character
- EQ3 Rural Development
- EQ4 Green Belt Development (EQ3a Main Modifications)
- EQ5 Biodiversity (EQ4 Main Modifications)
- EQ6 Design and Place Making (EQ5 Main Modifications)
- EQ9 Trees, woodland and Hedgerows (EQ8 Main Modifications)
- EQ10 Pollution Control and Unstable Land (EQ9 Main Modifications)
- EQ11 Flood Risk Management (EQ10 Main Modifications)
- H1 Location of Housing Development
- H2 Housing Allocations (H3 Main Modifications)
- H3 New Housing Development (H4 Main Modifications)
- CF6 Accessibility and Transport

And the following Adopted SPD's:-

- Residential Design Guidance SPD (Adopted 2005) – Appendix 15
- Landscape Character Appraisal (Adopted 2008) – Appendix 16

6.8 Local Plan policy H4 New Housing Development requires all new residential development to address the housing needs of local people by, providing a mix of housing that contributes positively to the promotion of a sustainable and inclusive community taking into account the characteristics of the existing housing stock in the surrounding locality.

6.9 Policy EQ2 of the High Peak Local Plan (2016) relates to Landscape Character and seeks to protect, enhance and restore the landscape character of the Plan Area for its own intrinsic beauty. The policy sets out that development will be resisted which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement.

6.10 Policy EQ3 of the High Peak Local Plan (2016) Rural Development sets out the Council's Countryside Policy. EQ3 seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character, appearance and integrity of the historic and cultural environment. Developments should be in accordance with Policy H1.

6.11 Policy EQ4 Green Belt Development is a new policy and (formerly EQ3a within the main modifications) states that the Council will seek to protect Green Belt and maintain its openness and permanence. The boundaries of the Green Belt are defined on the policies map. Permission will not be granted for development unless it is in accordance with national Green Belt policy.

6.12 Policy EQ6 (formerly EQ5 within the main modifications) Design and Place Making advises that all development should be well designed and of a high quality that responds positively to its environment and contribute to local distinctiveness. It requires development to respect the character, identity and context of High Peak's townscapes and landscapes. Development is required to contribute 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.

6.13 Local Plan Policy H1, Location of Housing Development includes the following:

*'The Council will give consideration to approving sustainable sites outside the defined built up area boundaries, taking into account other policies in this Local Plan, provided that:*

- *The development would adjoin the built up area boundary and be well related to the existing pattern of development and surrounding land uses and of an appropriate scale for the settlement; and the development would not lead to prominent*

*intrusion into the countryside or have a significant adverse impact on the character of the countryside; and*

- *It would have reasonable access by foot, cycle or public transport to schools, medical services, shops and other community facilities; and*
- *The local and strategic infrastructure can meet the additional requirements arising from the development.'*

6.14 Local Plan policy H4 New Housing Development requires all new residential development to address the housing needs of local people by, providing a mix of housing that contributes positively to the promotion of a sustainable and inclusive community taking into account the characteristics of the existing housing stock in the surrounding locality.

#### National Planning Policy Framework

6.15 The following sections, guidance and policies are relevant to the application which is contained within the in the National Planning Policy Framework:

- Achieving Sustainable Development
- Paragraph 17 Core planning principles
- Section 3 Supporting a prosperous rural economy
- Section 4 Promoting sustainable transport
- Section 6 Delivering a wide choice of high quality homes
- Section 7 Requiring good design
- Section 8 Promoting healthy communities
- Section 9 Protecting Green Belt land
- Section 11 Conserving and enhancing the natural environment
- Decision Taking
- Determining applications
- Planning conditions and obligations

6.16 The Framework was published in March 2012. The introduction explains the role of the Framework:

“The National Planning Policy Framework sets out the Government’s planning policies for England and how these are expected to be applied. It sets out the Government’s requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities”

- 6.17 It also reaffirms the primacy of the Development Plan in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990, and confirms that the Framework is a material consideration in planning decisions:

“Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions....”

A footnote indicates that the Development Plan includes the Local Plan and neighbourhood plans that have been made in the area.

- 6.18 Paragraph 6 advises that:

“the purpose of the planning system is to contribute to the achievement of sustainable development”

- 6.19 Paragraphs 7 and 8 explain the three mutually dependent dimensions to sustainable development: economic, social and environmental and that to achieve sustainable development, gains in all three dimensions should be sought jointly and simultaneously.

- 6.20 Paragraph 10 advises that:

“plans and decisions need to take local circumstances into account so that they respond to the different opportunities for achieving sustainable development in different areas”.

6.21 Paragraph 14 explains that at the heart of the Framework is a presumption in favour of sustainable development. For decision-taking this means, unless material considerations indicate otherwise:

- “approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted”. Footnote 9 advises that this includes land designated as Green Belt

6.22 Paragraph 17 sets out 12 Core Planning Principles that should underpin both plan-making and decision taking. Criterion 5 identifies the need to take into account the differing roles and character of areas, promoting the vitality of our main urban areas, protecting green belts around them, recognising the intrinsic character and beauty of the countryside and supporting the thriving rural communities within it.

6.23 In relation to housing applications, Paragraph 49 states that:

“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”

6.24 Paragraph 79, sets out that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence.

6.25 Paragraph 80, sets out the five purposes of the Green Belt:

- To check the unrestricted sprawl of large built-up-areas
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

6.26 Paragraph 87 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

6.27 Paragraph 88, advises that in considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by considerations.

7.1 Paragraph 89, advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions are set out in six bullet points, with bullet point 6 being:

- Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

## **7. Planning Considerations / Main Issues**

### History / Pre-Application Advice

7.1. The application, the subject of this appeal and the previous applications were subject to pre-application discussions. The Authority originally responded with pre-application advice since 2010 and is submitted as part of this appeal. A number of issues has been raised at each time prior to submissions, in particular relating to green belt, employment use, visual amenity, trees, landscaping, and highway safety. The Council did advise and has maintained that it would be unlikely that any new development of this nature would be supported and that any residential development within the green belt and the change of use from employment land to residential would be subject to rigorous justification.

- 7.2. The application the subject of this appeal has tried to mitigate previous reasons for refusal, however no pre-application advice for this submission was obtained from the Council, but the Authority has reiterated on numerous occasions that it was not feasible for a residential and would maintain that the appellant is fully aware of the Councils stance and this proposal does not differ.
- 7.3. The Authority offers a comprehensive and flexible service to potential developers to initiate and engage on schemes prior to their submission. This application is considered to be submitted against the recommendation of previous advice given without taking into consideration all the previous reasons for refusal and additional requirements for justifying a change of use to the site. There was no viability assessment submitted as part of the application but a comprehensive assessment and supporting information is provided as part of this appeal. The Authority will respond to these matters as part of its appeal submission, but considers that the appellant may have considered that those should have been completed and submitted at the outset prior to the application being submitted. The benefit of such engagement is highlighted within the National Planning Policy Framework in order to achieve sustainable development.

#### Residential Development, Sustainability & Housing Supply

- 7.4. Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. At the time of determination of the planning application the subject of this appeal the Council was unable to demonstrate a 5 year housing land supply. It is noted that the Appellants Statement refers to this.
- 7.5. The five year housing land supply position was discussed at the Local Plan Examination in September 2015, following which the Council submitted an amended housing supply and trajectory position to the Local Plan Inspector as part of the High Peak Local Plan (2016) examination.
- 7.6. The Council did not propose to amend the built boundary or Green Belt designations to include the site location and the site has not been included



as a housing land allocation in the High Peak Local plan (2016). The High Peak Local Plan (2016) does not propose the allocation of the appeal site for housing (or its release from the designated Green Belt).

7.7. Following the adoption of the New Local Plan the Council considers that it can demonstrate it has a five year housing land supply and the current 5 year land supply position published was at December 2015 as 6.2 years. Furthermore the Inspector in the local plan examination sets out this position within his report on the housing land supply.

7.8. The development of this site for three residential units will thus only make a limited contribution to the supply of housing in the Borough albeit it is acknowledged that there would be some but very limited social and economic benefits with the construction of three dwellings.

7.9. The Authority considers there are a number of issues raised by the proposals which outweigh the principle of residential development on this land. In particular the issues relate to the siting and appearance representing an inappropriate and undesirable urban intrusion into an area of vulnerable open countryside and the designated Green Belt which would adversely affect the character and distinctiveness and openness of the immediate and surrounding area. Whilst its scale, layout, design and residential nature being out of character with the existing pattern of residential development within the immediate rural area of Birch Vale. There are no very special circumstances that exist or that have been demonstrated to allow the residential development in the Green Belt, resulting in the proposal being inappropriate development.

#### Impact on the Countryside and Visual Amenity

7.10. The site lies within an area of countryside as designated within the High Peak Local Plan. Local Plan Policy EQ3 advises that the Council will seek to ensure that new development is strictly controlled in order to protect the landscapes intrinsic character and distinctiveness. This Policy also seeks to ensure that any development within the Countryside will not have a significant adverse impact on the character or distinctive need of the countryside and is consistent with Paragraph 17 and Section 7 and 11 of the NPPF.

- 7.11. The site is located in an area which positively contributes to the character and appearance of the settled valley landscape character type as identified in the Landscape Character SPD (adopted 2006).
- 7.12. The Authority considers that the proposed development if allowed would have a significant adverse impact on the character and distinctiveness of the countryside with the proposed construction of the new detached dwellings in terms of layout, scale, design and the loss and future potential loss of tree and vegetation coverage. It is considered that the nature of the development would represent an urban like cul-de-sac and be an isolated residential estate development having no integration to the houses on Spinnerbottom or wider rural area. The application tries to mitigate the built development by utilising existing areas of former buildings. This does not overcome the impact the residential development, its urbanisation on the site and wider area. Guidance contained within the Council's Residential Design SPD highlights general principles particular in relation to settlement patterns and understanding characteristics of High Peak housing patterns the proposal does not take account of this.
- 7.13. Since the dismissed appeal, in 1991 (Appendix 5) its setting and land designation has not significantly changed. Therefore the Council would emphasise that the view was supported by the Inspector in the planning inquiry from 1991 who stated that "any likely acceptable layout of houses or bungalows, together with curtilages, would result in a greater spread of permanent buildings on the land, in the form of a small residential estate, than that of the abattoir and knackers' buildings and their associated open yard areas". This was further supported by the Inspectors decision in 2012 (Appendix 19) paragraph 12 and conclusions.
- 7.14. Paragraph 55 of the National Planning Policy Framework relates to promoting sustainable development in rural areas, and states that "housing should be located where it will enhance or maintain the vitality of rural communities". It advises that Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances, this includes the re-use of redundant or disused buildings and lead to an enhancement to the immediate setting or the development is of exceptional quality or innovative nature of the design of the dwelling. The

development fails to accord with this guidance; the site is of an isolated nature and would not enhance the immediate setting or evolves the re-use of any redundant buildings on the site.

- 7.15. As such the development is contrary to guidance in the Landscape Character SPD, Residential Design Guidance and Policies EQ2, EQ3, EQ6, H1 and H3 of the High Peak Local Plan (2016) which seek to protect the character and distinctiveness of areas of countryside and the visual qualities and amenities of the locality. The development would also be contrary to the Framework and is considered to be environmentally unsustainable.

### Green Belt

- 7.16. The National Planning Policy Framework advises Inappropriate development is, by definition, harmful to the Green Belt and that very special circumstances are required to justify allowing development as stated in Paragraph 87. Paragraph 88 advises that Local Planning Authorities should ensure substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed.

- 7.17. In accordance with paragraph 89 of the National Planning Policy Framework, new buildings within the Green Belt are regarded as inappropriate unless they fall within one of the limited categories of exception.

- 7.18. The development of this site will clearly have a greater impact on the openness of the Green Belt by reference to the amount of built form and nature of residential development proposed. The development would encroach into open countryside and erode the open aspect of this part of the Green Belt by the housing, garden areas, associated domestic paraphernalia, parking and alterations to the access and service requirements etc.

- 7.19. The development would be contrary to paragraph 89 of the Framework as it would have a greater impact on the openness of the

Green Belt. The Authority considers that this proposal for three detached dwellings would also have a harmful impact on the openness of the Green Belt. The proposal would add bulk and mass to existing predominantly open areas of the site which would be harmful to the openness of the Green Belt. It would also conflict with one of the main purposes of the Green Belt as set out in paragraph 80 “to assist in safeguarding the countryside from encroachment”.

7.20. The development would be inappropriate development and by definition, harmful to the Green Belt. Openness is harmed and the countryside will suffer some encroachment. Each of those elements of Green Belt harm attracts substantial weight.

7.21. The Inspector in his decision (Appendix 19) dismissing the previous appeals, paragraph 12 states “In coming to this view, I acknowledge that the existing buildings on the site are utilitarian in appearance and in a state of some disrepair. Nevertheless, they are relatively unobtrusive, and their appearance does not justify replacement with dwellings that would be alien to their rural setting and detrimental to the visual amenity of the Green Belt. It was concluded in paragraph 22 and that the development was inappropriate development in the Green Belt and no special circumstances had been put forward to outweigh the harm by the way of inappropriateness. This appeal is in no better position

7.22. It is considered that the development would provide only limited benefits given the scale of development. The scheme will add 3 dwellings to the Council’s supply of land for new housing. It will generate some limited economic good in the form of temporary construction jobs. Occupants of the 2 dwellings will generate some local spending. These benefits would be limited and fall well short of clearly outweighing the harm caused to the Green Belt

7.23. As such it is considered that the application still does not demonstrate any special circumstances why new development for residential purposes should be allowed or why it is not inappropriate development. The proposal and constraints would impact not only on the immediate setting but the wider areas of landscape in which the site sits.

7.24. The previous appeal decision in 1991, (Appendix 5) the Inspector advised that the application failed to establish “very special circumstances”. The continued existing use of the site and its potential impact on neighbouring residential amenity did not qualify as part of the very special circumstances that would justify acceptance for the proposal.

7.25. Therefore the proposed development if allowed would result in a negative and harmful impact on the openness and thus harmful to the landscape while injuring the visual amenities of the Green Belt resulting in the development being an inappropriate form, which is thus contrary to the Local Plan Policy EQ4 and the guidance on Protecting Green Belt Land in the National Planning Policy Framework.

#### Employment and Business Use

7.26. Local Plan Policy E4 states that development proposals involving redevelopment or change of use of existing business or industrial land for non employment uses will only be permitted where:

*“1. The continuation of the land or premises in industrial or business use is constrained to the extent that it is no longer suitable or commercially viable for industrial or business use as demonstrated by marketing evidence commensurate with the size and scale of development; and the proposed use is compatible with neighbouring uses, or*

*2. An appropriate level of enabling development is required to support improvements to employment premises or supporting infrastructure. In such cases, a viability appraisal should be submitted to demonstrate that a change of use or redevelopment of the site is required to fund the improvements. Mixed-use proposals should not create any environmental, amenity or safety issues.*

*Proposals that would result in an under-supply of suitable employment land in relation to identified needs will not be permitted.”*

7.27. The planning application was supported by details of marketing which was undertaken by the appellant. This clearly advises that there was interest in the site to a point where an offer was put in. During the course

of the application a third party contacted the Authority and provided comments on the application (a copy accompanied the questionnaire) and advised that they were still interested in pursuing the site as a business use.

7.28. A fundamental emphasis of policy within the development plan is that sales and marketing is carried out as well as alternative business uses for the site is sought. The Authority considered that the proposal failed to meet the criteria as set out within its superseded policy EQ9, (it stated planning permission will be granted for the change of use of industrial or business land or premises provided that the developer can clearly show that there is no market demand for the site for employment use). EQ9 was considered in part to be consistent with the Framework. It was evident within the application that it could not be clearly shown there was no market demand for the site. The Authority considers the application; the subject of the appeal also fails the criteria as set out within Local Plan Policy E4.

7.29. Paragraph 21 of the National Planning Policy Framework gives guidance that Local Planning Authorities should support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors. The site is an employment site and therefore would need to comply with policies set out within the current development plan in regards to a change of use. The Authority has no intention in the immediate future of changing the designation of this land including, the site was also not been put forward as part of any consultation or recommendation as a housing site in its preferred options. Although Paragraph 22 of the National Planning Policy Framework states that the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose being avoided, however it states that *“applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities”*.

7.30. The Authority supports business development in the countryside, which contributes to the rural economy in accordance with Policy EQ3. It is considered that alternative options for business uses on the site have

not been investigated and residential use should not be the only consideration. This is supported by Paragraph 28 of the National Planning Policy Framework where planning policies should support economic growth in rural areas to create jobs and prosperity and expansion of all types of business and enterprise in rural areas.

7.31. The Applicant reiterates that the use remains a non-conforming one that is served by a vehicular access that is far from ideal for heavy traffic generation in terms of residential amenity. However the use of the access in this nature has been accommodated for 20 years and more and would be addressed as a matter for any subsequent new use on the site requiring a change of use. It should be highlighted that if the site remained in the same Use Class the Authority would not be able to restrict any planning constraints or conditions on traffic as permission would not be required, it is also likely that it would be a County Council matter.

7.32. As part of this appeal submission the appellant has submitted a viability assessment and further information. This information has been assessed by the Council's consultant as an expert witness. The findings and conclusions of this can be found at Appendix 18 and Appendix 18A. This concludes that there are substantially different conclusions particularly in respect of the continued use of the site for low grade employment uses. As such the Authority would disagree with a number of opinions and conclusions reached for the reasons as set out within the appellants' document.

#### Trees / Landscaping

7.33. The site lies within an area covered by Tree Preservation Orders and of which the trees, woodland and vegetation positively contribute to the immediate vicinity of the site and the rural nature of the site and its surroundings. The proposed residential development would have a threat to the continued well being of a number of protected trees and therefore the application was subsequently refused on this basis.

7.34. The Councils Arboricultural Officer has provided comments in relation to the reason for refusal relating to Trees and further information as

submitted as part of this appeal by the appellants. This is attached at Appendix 17.

7.35. The appellants consider that the development would not adversely affect trees and that design and construction methods and landscaping including any woodland management would be acceptable as set out. However it is considered that the overall proposal of residential development including the access with passing places would lead to a threat to trees on the site which are currently protected and contribute positively to the topography, nature and visual amenities of the site and its surroundings.

7.36. To conclude on the Arboricultural Officers comments in terms of the siting of residential development the juxtaposition of the woodland and trees in regards to the proposed dwellings is considered to be of an unacceptable nature. There are many mature trees near to the proposed dwellings which would have to be removed as they would pose an unacceptable risk to the houses and gardens of the new dwellings as they would result in unacceptable loss of residential amenity including overshadowing and loss of light.

7.37. Therefore the development would cause significant harm and threat to continued longevity of these mature trees and would be contrary to Local Plan Policy EQ9 of which the Council seeks to protect existing trees, woodlands and hedgerows, in particular ancient woodland and veteran trees. Paragraph 61 of the National Planning Policy Framework states that “decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment” the proposal fails to take account of its immediate and wider setting in terms of the natural environment it sits within”.

7.38. The justification for refusal on this basis is also supported by National Planning Policy Framework, Paragraph 118 states the principles which Local Authorities should apply in determining applications to conserve and enhance biodiversity, in particular it states *“if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort,*



*compensated for, then planning permission should be refused” “Planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss”.*

- 7.39. Within the National Planning Policy Framework, Section 11 Conserving and enhancing the natural environment, paragraph 109 states that “the planning system should contribute to and enhance the natural local environment” and in paragraph 118 “local planning authorities should aim to conserve and enhance biodiversity”. This is by applying the principles set out. Given it is not clear of the intentions of all the trees and the limited information provided in regards to a comprehensive woodland management proposal to the Authority it is considered that the proposal conflicts with these principles and guidance that is contained within the National Planning Policy Framework.
- 7.40. The Councils own Landscape Character Supplementary Planning Document (Appendix 16) provides guidance for new developments and has regard to the approach that all landscapes are valuable and seeks to protect their essential character by making sure that any changes support rather than erode landscape character. The proposed development therefore is considered contrary to the guidance and principles set out within this document and fail to take account of the distinctiveness and character of the surrounding landscape.

#### Highway Safety / Visibility

- 7.41. The Authority did not refuse the application in regards to highway safety given comments received by the Highway Authority and the emphasis of placing reasonable conditions on any decision. However, it is considered the access would be harmful and would have a detrimental impact to the visual character of the area with the loss of the trees and the threat to the longevity of further trees including loss on Spinnerbottom, the access track passing areas and also have a negative impact on the character of the wall along Spinnerbottom and Quarry Road.

### Sustainable Development

- 7.43 . The 'presumption in favour of development' set out at paragraph 14 of the Framework must first be proven to be 'sustainable development' by consideration against policies in paragraphs 18 to 219 of the Framework taken as a whole (paragraph 6).
- 7.44 Paragraph 49 of the Framework goes on to advise that housing applications should be considered in the context of the presumption in favour of sustainable development.
- 7.45 The development is patently environmental unsustainable for the reasons set out above and does not accord with the provisions of the development plan. Permission should therefore be refused. If paragraph 14 were to apply however, the crux of the test of sustainable development in relation to the proposals as set out in paragraph 14 of the Framework is whether granting planning permission would result in any adverse impacts that would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.
- 7.46 The nature of the adverse impacts of the development on the character and landscape of the area as well as it being Green Belt is indeed significant and demonstrable outweighs the benefits associated with this housing development, whilst Section 9 would restrict the development. If Section 9 does not restrict the development for the purposes of the Green Belt then the adverse impacts of the development would need to be considered.
- 7.47 The presumption in favour of sustainable development can only take effect if the development is proven to be sustainable development. It is however important to consider other relevant aspects of sustainable development as set out in the Framework which are broader than environmental concerns.
- 7.48 Paragraph 7 of the Framework identifies that the planning system has 3 roles to perform in relation to sustainability, these being economic, social and environmental. In economic terms the Framework acknowledges that land must be of the right type and in the right place; in social terms the creation of a high

quality built environment with accessible local services that reflect the community's needs is highlighted; and environmentally of importance is to contribute to protecting and enhancing our natural, historic and built environment, improving biodiversity with a general need to move toward a low carbon economy with a prudent use of natural resources.

7.49 The Framework doesn't give any greater or lesser weight to any one of the dimensions and that is reaffirmed in Paragraph 8 which comments the roles are mutually dependent and "... to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions. "

7.50 Accordingly there is a balance to be struck between any harm caused and the benefit of the proposal when assessed against the policies in the Framework taken as a whole. It is submitted that the balance cannot possibly weigh in favour of this development because of the unsustainable environmental implications raised by this appeal proposal which would significantly and demonstrably outweigh the social and economic benefits.

7.51 Given the development as proposed is environmentally unsustainable by the adverse effect the proposal would have on the character and distinctiveness of the immediate area and surrounding countryside and landscape it is not considered to be sustainable development as set out in the Framework.

## **8.0 Appellants Grounds of Appeal**

8.1 The Authority considers this statement addresses the issues which have been raised along with those appendices attached to the statement from other professionals.

8.2 In regards to the previous use of a dwelling known as Birch House, the appellant has indicated this was pre second world war. In terms of planning history or weight to this matter of a previous dwelling at the site it is considered to hold little merit in terms of suitability for residential development on an allocated employment site. Obviously given the time the Local Planning Authority does not hold planning records from this time.

## **9.0 Conclusions**

9.1 It is the Local Planning Authority's duty to consider the acceptability of any development in accordance with the provisions within the Development Plan and the National Planning Policy Framework.

9.2 For the reasons set out in this statement and that the proposed development would result in an inappropriate form of development where no very special circumstances exist to justify the development to be allowed. It would have a detrimental impact to the character and appearance of the countryside and visual amenities of the green belt as well as the threat to the landscape and protected trees and would result in the loss of a site designated for economic and employment purposes without any justification and which, fails to demonstrate it is no longer required for business use or alternative economic uses have been sourced or considered it is respectfully requested that Inspector dismisses the appeal.

9.3 However in the event that planning permission is granted, it is respectfully requested that the following conditions be imposed, with an emphasis of wording being agreed at the Hearing, there would also be with the emphasis on the Authority discharging conditions were further or revised information is necessary,

1. Standard 3 year time limit
2. Samples of Materials to be submitted to the LPA
3. Details of windows and doors to be submitted to the LPA
4. Details of finished floor levels to be submitted to the LPA
5. Detailed Landscaping and boundary treatments scheme details to be submitted to the LPA and be implemented prior to occupation.
6. Construction Method Statement (PI standard condition)
7. Hours of Construction
8. An appropriate SUD system to be submitted to the LPA
9. Highway Conditions in regards to visibility, parking provision and traffic control measures.
10. Details of modifications to the wall along Spinnerbottom / Quarry Road

11. Contamination Conditions as required by Environmental Health
12. Conditions relating to Biodiversity / Trees
13. Any other conditions the Inspector may consider relevant to the development to be permitted inline with the Framework and NPPG.

### List of Appendices

- Appendix 1 – Decision Notice HPK/2015/0283
- Appendix 2 – Decision Notice HPK/2012/0293
- Appendix 3 – Decision Notice HPK/2011/0101
- Appendix 4 – Site History
- Appendix 5 - Planning Inquiry Decision 1991
- Appendix 6 – Meeting Minutes
- Appendix 7A – Copy Email to Agent re EMP9
- Appendix 7B - Copy Email response from Agent to EMP9
- Appendix 7C - Copy of Pre-App Emails
- Appendix 8 – Officer Delegated Report
- Appendix 9 – Inspectors Report Local Plan
- Appendix 10 – Appendix to Inspectors Report Local Plan
- Appendix 11 – Main Modifications to Local Plan
- Appendix 12 – Additional Main Modifications to Local Plan
- Appendix 13 – Appendix 3
- Appendix 14 – Local Plan Adoption Statement
- Appendix 9 – Residential Design SPD
- Appendix 15 - Landscape Character Appraisal SPD
- Appendix 16 – Derbyshire Wildlife Letter
- Appendix 17 – Arboricultural Officers Appeal Report
- Appendix 18 – Councils Consultant Viability Report and Conclusions (expert witness)
- Appendix 18A - Councils Consultant Viability Report and Conclusions (expert witness) appendix I
- Appendix 19 – Planning Appeal Decision HPK/2012/0293

