



WHITE PEAK Planning

Planning Proof of Evidence on behalf of High Peak Borough Council - Summary

Robert White BSc (Hons), MRTPI, MIEMA, CEnv

Appeal by Mr Garie Bevan against the decision by High Peak Borough Council to refuse to grant outline planning permission for residential development at land at Manchester Road, Tunstead Milton (ref: HPK/2015/0351).

Appeal Ref: APP/H1033/W/16/3147726

November 2016

Ref: 2016.008.003

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High Peak Borough Council

Land at Manchester Road, Tunstead Milton

Planning Proof of Evidence – High Peak Borough Council

November 2016

Ref: 2016.008.003

Authorised for and on behalf of White Peak Planning Ltd.

A handwritten signature in black ink, appearing to read 'Rob White', written over a faint, light blue rectangular stamp.

**Rob White
Director**

This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party. Any such party relies on this report at their own risk.



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Professional Background

- 1.1.1 My name is Robert White, I am a Director of White Peak Planning Limited, an independent Planning and Sustainable Development consultancy.
- 1.1.2 I have been asked to provide planning evidence in support of the refusal of High Peak Borough Council (HPBC) to grant planning permission for application HPK/2015/0351.
- 1.1.3 I have been appointed by HPBC following determination of the application. I have therefore, reviewed the application afresh and sought to identify relevant material considerations in order that they can be considered at appeal.
- 1.1.4 The evidence which I have prepared and provided for this appeal is true and has been prepared and given in accordance with appropriate guidance. I confirm that the opinions expressed are my true and professional opinions.

Summary of Evidence

- 1.1.5 This summary sets out the key points made in my Proof of Evidence, based around the themes of:
- The Policy Framework and Material Considerations
 - Conflict with the Local Plan
 - Conflict with the Neighbourhood Plan
 - Conflict with Local Green Space designation
 - The Planning Balance
- 1.1.6 These demonstrate that the reasons for the refusal of the planning application remain valid and the Appeal should be dismissed.

The Policy Framework and Material Considerations

- 1.1.7 The Development Plan for this appeal comprises the High Peak Local Plan (2011-31), adopted in April 2016 and the Chapel-en-le-Frith Neighbourhood Development Plan 2013-2028 'made' in August 2015.
- 1.1.8 The High Peak Saved Local Plan policies referred to in the reasons for refusal have been superseded by policies contained within the High Peak Local Plan (2011-31).
- 1.1.9 Material considerations in the determination of this appeal include the National Planning Policy Framework), National Planning Practice Guidance ('PPG'), relevant case law, and relevant Secretary of State Appeal Decisions and Statements.

Five Year Housing Land Supply Position

- 1.1.10 During examination of the High Peak Local Plan (2011-31), the Council could demonstrate a five year supply of housing land and this was accepted by the Local Plan Inspector.
- 1.1.11 On this basis, the Council's current position is that it can demonstrate a housing land supply of 6.7 years.
- 1.1.12 Further information on the calculation of the Council's five year supply of housing is provided in the proof of evidence prepared by Mr Massie.

Conflict with the Development Plan

- 1.1.13 It is considered that the appeal proposals conflict with or are not supported by the following Local Plan and Neighbourhood Plan policies:

High Peak Local Plan:

- S2 - Settlement Hierarchy
- S3 - Strategic Housing Development
- S6 - Central Sub-area Strategy
- EQ3 - Rural Development
- H1 - Housing
- H2 - Housing Allocations
- H4 - Affordable Housing
- CF4 - Open Space, Sports and Recreation Facilities

Chapel-en-le-Frith Neighbourhood Plan

- C1 - Local Green Spaces
- H1 - Housing Allocations
- H2 - Smaller Sites

- 1.1.14 The reasons for the conflict with of lack of support offered by the above policies are set out in detail in my proof of evidence and can be summarised as follows:
- The site is not designated as a housing allocation within the Local Plan or Neighbourhood Plan.
 - Tunstead Milton is not considered to be a suitable settlement for growth in either plan due to the absence of services.
 - The site is outside of the built up area boundary.
 - The proposals do not meet the policy tests for rural development.
 - The proposals do not meet the criteria for smaller sites.
 - The site is not in a sustainable location and cannot be made so.

- The proposals will cause substantial harm to a designated Local Green Space.

1.1.15 Given the policy conflict at the broader Local Plan level, together with the more localised requirements of the Neighbourhood Plan, plus the unsustainable location, I consider that very substantial negative weight should be given to the harm the proposals would cause to the Development Plan.

Local Green Spaces

1.1.16 Turning to the issue of Local Green Space in particular, Policy C1 of the Chapel Neighbourhood Plan designates the appeal site as Local Green Space, part of the 'Land around Combs Reservoir', which functions to protect locally important areas of open space around Combs Reservoir, adjacent to the villages of Tunstead Milton, Combs and Cockyard.

1.1.17 Paragraph 76 of the NPPF states that '*By designating land as Local Green Space local communities will be able to rule out new development other than in very special circumstances.*' Paragraph 78 also states that '*Local policy for managing development within a Local Green Space should be consistent with policy for Green Belts.*'

1.1.18 The appeal proposals, which would comprise inappropriate development in the Green Belt, will result in the direct loss of part of the Local Green Space, causing significant harm to its openness, significance and value to the local community of Tunstead Milton.

1.1.19 Although public access is proposed to the remaining undeveloped part of the site south of the proposed dwellings which will remain as Local Green Space, the development will essentially form a barrier between this part of the site, the existing built up area of Tunstead Milton and part of the Buxton footpath.

1.1.20 Most significantly, development is proposed on the most prominent part of the Local Green Space and the area across which views are afforded to the countryside beyond from the Buxton footpath, southwards from Tunstead Milton towards Ladder Hill and into the site from the footpath alongside Combs Reservoir to the east.

1.1.21 The area of Local Green Space proposed to be retained is steeply sloping and of limited recreational value and would be backed onto by the rear gardens of the proposed development.

1.1.22 Therefore, the appeal proposals conflict with Policy C1 of the Chapel Neighbourhood Plan.

1.1.23 As described in *Section 6* of my proof of evidence, 'very special circumstances' have not been demonstrated here that would clearly outweigh the harm to the Local Green Space and hence refusal of the application on this basis is justified.

Absence of Five year Land Supply

1.1.24 Although the council maintains that it can now demonstrate a 5 year housing land supply and that all of the Chapel Neighbourhood Plan policies relating to the

supply of housing are relevant to this appeal, should the Inspector be of the opinion that it cannot and therefore, that policies are 'out of date', appropriate weight should still be given to the conflict with the neighbourhood plan policies and hence the Council's decision to refuse the application was justified.

- 1.1.25 The Council's decision to refuse the application despite not having a 5 year housing land supply at that time is supported by the High Court decision in *Crane v SSCLG*¹. The Crane case is very similar to this appeal, whereby the Appellant applied for a site that was not allocated in a Neighbourhood Plan and at the time of determination, the local planning authority did not have a 5yr housing land supply.
- 1.1.26 The Crane case confirms that it is perfectly reasonable and proper for the decision maker to give appropriate weight to the Neighbourhood Plan. This can outweigh the need to provide housing, as it did in Crane, albeit in this instance HPBC is now meeting its housing needs, does have a 5yr housing land supply and furthermore the site is designated as Local Green Space.
- 1.1.27 Planning Policy Guidance at Para 083 published in February 2016, confirms the importance of Neighbourhood plans and clarifies that where a 5yr housing land supply is absent and paras 49 and 14 have effect, the adverse effects of granting planning permission should include the policies of the Framework '*taken as a whole*' including an assessment against those policies that deal with Neighbourhood Planning including paras 69, 183-185 and 198 of the Framework.
- 1.1.28 Since Para 083 was published there have been a number of appeals recovered for the Secretary of State's determination where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority or where a neighbourhood plan has been made and I provide examples of these in my proof.
- 1.1.29 Some consistent themes which emerge from these decision letters from the Secretary of State include that:
- Very substantial negative weight should be given to conflicts with the development plan and its constituent Neighbourhood Plans;
 - Granting permission for schemes not in accordance with Neighbourhood Plans would fundamentally undermine confidence in neighbourhood planning;
 - Once made Neighbourhood Plans should be upheld to shape and direct development in the neighbourhood planning area in question, and in particular that development beyond settlement boundaries should not be allowed.
- 1.1.30 Given the Crane decision, the Planning Policy Guidance guidance and the themes emerging from applicable SoS decisions it is clear that conflict with Chapel Neighbourhood Plan should be given very substantial negative weight and the appeal dismissed accordingly.

¹ *Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin) (23 February 2015)

Planning Balance

- 1.1.31 In my proof of evidence I demonstrate how the proposed development conflicts with, or is not supported by, relevant policies included in the High Peak Local Plan and the Chapel-en-le-Frith Neighbourhood Plan and the and that this conflict with the Development Plan justifies the first two reasons for refusal.
- 1.1.32 In addition the proposals are in conflict with the National Planning Policy Framework and National Planning Policy Guidance.
- 1.1.33 In assessing the planning balance, my main considerations are:
- The potential benefits of the scheme and whether they are significantly and demonstrably outweighed by the adverse impacts of granting planning permission; and
 - The very substantial harm caused by conflict with the Development Plan.

Assessment of Potential Benefits

- 1.1.34 In their amended Statement of Case, the Appellant identifies the potential benefits of the appeal proposals that are purported to comprise very special circumstances to justify the granting of planning permission despite the conflicts with Policy C1 of the Chapel Neighbourhood Plan and CF4 of the High Peak Local Plan (2011-31).
- 1.1.35 The potential benefits of the appeal proposals as described by the Appellant are:
- The retention of part of the site as a 'Nature Reserve' / public open space (POS) together with the implementation of a management plan in perpetuity;
 - A net positive impact for wildlife and walking/recreation and a net positive gain for biodiversity;
 - The provision of open market and affordable housing
 - Provision of a new footway between the site and the existing bus stop to the east on Manchester Road; and
 - Adoption of energy efficiency standards equivalent to Level 5 of the Code for Sustainable Homes.
- 1.1.36 In my proof I describe how these purported benefits do not constitute very special circumstances and therefore, why in balance, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits.

Conclusion

- 1.1.37 Due to the conflicts with the High Peak Local Plan and Chapel Neighbourhood Plan, I consider that the significant cumulative negative impacts of the proposed development to the Development Plan process and the Neighbourhood Plan in particular, significantly and demonstrably outweigh the very limited potential benefits of the proposed development.

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- 1.1.38 The benefits are not considered to comprise 'very special circumstances' which clearly outweigh the harm to the designated Local Green Space.
- 1.1.39 Therefore, in conclusion, the appeal should be dismissed to allow development in Tunstead Milton and the Chapel-en-le-Frith Neighbourhood Plan area to be brought forward in a way that is in accordance with the Neighbourhood Plan and High Peak Local Plan (2011-31) as set out in national planning policy and guidance.