



Proof of Evidence of Caroline Payne

Outline planning application for residential development
including demolition of 70 and 72 Brown Edge Road –
Land adjacent to Brown Edge Close, Buxton, Derbyshire,
SK17 7AF

for Glennmark Trading Limited

16-175

PI ref: APP/H1033/W/16/3155484

LPA ref: HPK/2015/0471

Emery Planning
2-4 South Park Court, Hobson Street
Macclesfield, SK11 8BS
Tel: 01625 433 881
www.emeryplanning.com



unlocking development opportunities

Project : 16-175
Site address : Land adjacent to Brown
Edge Close, Buxton,
Derbyshire, SK17 7AF
Client : Glenmark Trading
Limited
Date : 30 January 2017
Author : Caroline Payne

This report has been prepared for the client by Emery Planning with all reasonable skill, care and diligence.

No part of this document may be reproduced without the prior written approval of Emery Planning.

Emery Planning Partnership Limited
trading as Emery Planning.

Contents:

1. Introduction	1
2. The appeal proposal	3
3. Site and area description	5
4. Relevant planning history	7
5. Planning policy context	8
6. Proposition 1	14
7. Proposition 2	18
8. Proposition 3	25
9. Proposition 4	27
10. Proposition 5	28
11. Proposition 6	31
12. Proposition 7	32
13. Summary and conclusions	33
14. Appendices	34



1. Introduction

- 1.1 This Proof of Evidence is submitted on behalf of Glennmark Trading Limited (the Appellant) in support of a planning appeal against High Peak Borough Council's decision to refuse to grant outline planning permission for residential development including demolition of 70 & 72 Brown Edge Road at Land off Brown Edge Close, Buxton (PINS ref: APP/H1033/W/16/3155484).
- 1.2 This evidence should be read alongside the evidence presented by Ben Pycroft of Emery Planning in respect of housing land supply matters and Jon Berry of Tyler Grange on landscape matters.

Qualifications

- 1.3 I am Caroline Payne. I have a Bachelor of Arts with Honours in the subject of Urban and Regional Planning with a Post-Graduate Diploma in Town & Country Planning from the University of Sheffield. I am a member of the Royal Town Planning Institute and a Practitioner Member of the Institute of Environmental Management and Assessment.
- 1.4 I am a Chartered Town Planner with over 15 years' experience in local government and private practice. I am an Associate Director in the firm of Emery Planning (EP), chartered town planners and development consultants based in Macclesfield Cheshire. I deal with a range of developments across the UK including retail and leisure proposals, commercial and residential.
- 1.5 Emery Planning was the agent for the outline planning application HPK/2015/0471, which is now the subject of this appeal. I am therefore familiar with the appeal site and the planning history.
- 1.6 The evidence which I have prepared and provide for this appeal (PINS ref: APP/H1033/W/16/3155484) is true and has been prepared and given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinion.
- 1.7 I provide a separate summary and set of appendices.

Propositions

- 1.8 The case for the Appellant will be addressed through the following propositions:

- Proposition 1: The proposal complies with the relevant policies in the Development Plan and there are no material considerations to indicate that planning permission should not be granted.
- Proposition 2: The proposed residential development relates to a sustainable edge-of-settlement site and would be fully compliant with Policy H1 of the adopted Local Plan
- Proposition 3: The proposal would respect the local landscape character
- Proposition 4: (a) The council cannot demonstrate a deliverable five year supply of housing land in accordance with paragraph 47 of the Framework and new housing is therefore needed now to address the significant shortfall b) All development plan policies relevant to the supply of new housing development should be considered out of date in accordance with paragraphs 49 and 14 of the Framework.
- Proposition 5: The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 7 of the NPPF
- Proposition 6: There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 14 of the NPPF.
- Proposition 7: The proposed development would provide for the necessary infrastructure and/or financial contributions to meet the needs arising from the development.

1.9 The evidence in respect of Proposition 3 is primarily dealt with by Mr Berry and this Proof concludes on the planning balance.

2. The appeal proposal

- 2.1 The appeal application was submitted to High Peak Borough Council on 17 September 2015 and sought outline planning permission for residential development including the demolition of 70 and 72 Brown Edge Road. Access was sought for approval at the outline stage.
- 2.2 A full set of illustrative drawings were included as part of the application. The originally submitted drawings indicated 19 dwellings on the site including gardens and car parking. Three new dwellings would be provided at the access point to the site through the demolition of 72 Brown Edge Road. It is intended that these dwellings would comprise affordable homes. Dwelling A1 would front onto Brown Edge Road with two further dwellings situated behind it fronting onto Brown Edge Close.
- 2.3 Access to the site would be obtained from the existing access to Brown Edge Close. The application proposes the widening and continuation of the access road through the demolition of 70 and 72 Brown Edge Road.
- 2.4 The access road would run down the centre of the site with a turning head at the northern point. The dwellings would front onto the access road.
- 2.5 The appellant's team met with planning officers, Faye Plant and Jane Colley on 25 November 2015. Planning officers raised concerns at this meeting with regard to the impact of the proposed development on the open countryside. Although it did not accept these concerns, the appellant sought to accommodate the officers' views by making a number of amendments to the proposals. The drawings as revised illustrate 20 dwellings on the site comprising a mix of 2, 3 and 4 bedrooms, ranging in height from 2 to 3 storeys. However, such detailed design matters would be agreed at the reserved matters stage. A total of 6 affordable homes would be provided on site.
- 2.6 The key changes were as follows:
- A change in house types on plots 3, 4, 6 and 7 to remove the 3.5 storey dwellings completely and increase the number of 3 bedroom dwellings on the site. The mix of dwellings proposed now comprises 5 x 2 bedroom dwellings, 5 x 3 bedroom dwellings and 10 x 4 bedroom dwellings.

- The removal of what was previously plot 8 completely (the most northerly unit). This was replaced with a landscape buffer running alongside plot 9 and providing a softer and definitive north-eastern edge to the scheme.
- Plot 9 was reconfigured and replaced with 3 further affordable homes to ensure that all 6 affordable units are provided on site.
- The redesign of the affordable plots A1 to A3 to ensure there are no habitable windows overlooking adjacent gardens.

2.7 The planning officer stated by email dated 22 December 2015 that notwithstanding the revised information, she still had concerns regarding landscape impact.

2.8 The January 2016 committee report is attached at **EP1** recommending refusal on landscape grounds only and matters that could be resolved by s106. The application was deferred from the January committee to enable officers to respond to advice from counsel submitted by the appellant. The application was presented to committee in February 2016, again with a recommendation of refusal on landscape grounds only. A copy of the committee report is attached at Appendix **EP2**.

2.9 Planning permission was refused on 23 February 2016 for the following reasons:

"1. The proposed development would be visually intrusive in the landscape and fails to respect local landscape character. The development would result in an undesirable expansion and encroachment, outside of the built up area boundary for Buxton, into the open countryside. As such the development would erode the visual appearance and character of the open countryside contrary to Policies H1, OC1, OC3, OC4, GD4 and H11 of the Adopted High Peak Local Plan Saved Policies 2008, policies H1, S7, EQ2, EQ3 and EQ5 of the Emerging Local Plan and advice contained within the adopted Landscape Character Assessment Supplementary Planning Guidance March 2006. The harm caused to the environmental dimension of sustainable development outweighs any social and economic benefits of the scheme and therefore the proposal does not represent sustainable development.

2 There is no mechanism in place to secure the required affordable housing, off-site play space and outdoor sports provisions which are necessary to support the proposed development. The proposal is thus contrary to Policies H9 and H12 of the adopted High Peak Local Plan 2008, Planning Obligations SPD 2005, policy CF7 and H5 of the Emerging Local Plan and advice contained within the National Planning Policy Framework 2012."

2.10 The refused drawings are listed on the decision notice.

3. Site and area description

- 3.1 The site is situated within the open countryside adjacent to the defined settlement boundary of Buxton. Buxton sits at the top of the settlement hierarchy in the High Peak being identified as one of the Borough's five market towns (Policy S2). The Local Plan allocates the Buxton sub-area the greatest proportion of housing growth in the Borough (32-43%) (table 3 of Policy S3). Buxton is the only market town within this sub-area. The Local Plan aspires to establishing Buxton as England's leading spa town and to consolidate its role as the principal service centre for the Peak District.
- 3.2 The site extends to 1.4 hectares and in the main comprises two fields of unmanaged grassland situated to the rear of existing properties on Brown Edge Road. The site slopes steeply downhill from west to east.
- 3.3 It also comprises 70 and 72 Brown Edge Road which are situated within the settlement boundary. In this regard, the site is part previously developed and part greenfield.
- 3.4 Access is obtained from between 72 and 74 Brown Edge Road. It is understood that the site was originally part of a small holding but the buildings associated with it have now been redeveloped to form 5 detached dwellings known as Brown Edge Close. It is therefore accessed through Brown Edge Close.
- 3.5 The site immediately adjoins residential properties along Brown Edge Road to the west with further residential development situated on Ladycroft Avenue to the south. It adjoins the residential property Low Croft to the north although this property is situated in the open countryside. To the east, the site is separated from the railway line and open countryside beyond by a dry-stone wall. Although currently undeveloped, the land immediately on the opposite side of the railway line is now an allocation in the recently adopted High Peak Borough Local Plan and included within the settlement boundary.
- 3.6 Brown Edge Road represents a linear pattern of development rising from its junction with Lightwood Road extending out along the ridge into the open countryside. The properties along Brown Edge Road include stone built late Victorian semi-detached houses with slate roofs, together with more modern semi-detached dwellings, primarily pebble-dash with some rendered/painted with red tile roofs. The dwellings range in height from bungalows to three

storeys in height. The properties off Brown Edge Close are large detached dwellings of stone construction. There is no clear or distinct character to this area. Buildings are of a mixed type and design.

4. Relevant planning history

4.1 There have been two earlier planning applications on this site:

- Outline planning application for construction of 21 dwellings plus highways and associated external works – withdrawn 3 August 2012 (HPK/2012/0252)
- Outline planning application for construction of 21 dwellings plus highways and associated external works – withdrawn 25 October 2013 (HPK/2013/0449)

4.2 The Appellant was not involved in either of these planning applications.

4.3 With regard to the surrounding area, outline planning permission was granted in March 2007 for the erection of five detached dwellings plus access drive at land adjacent to 72 Brown Edge Road, Buxton. The development is now constructed and comprises Brown Edge Close.

4.4 Also of relevance is the housing allocation immediately to the east of the site. Policy DS17 of the 2016 Local Plan allocates land at Hogshaw amounting to 13.7 hectares for the residential development of approximately 124 dwellings including public open space, and for recreation and amenity space. The provision of a new vehicular access from the A6 at Fairfield Common would be required to access the site. The 2016 Local Plan proposes a new roundabout at Fairfield Common to serve both the Hogshaw development and other development in Fairfield. There is a resolution to grant planning permission for the roundabout and phase 1 of the Fairfield Link Road. A copy of the committee report is attached at Appendix **EP3**. A local distributor standard road of approximately 265m would be required from the proposed roundabout in order to access the Hogshaw allocation (Phase 2 of the Fairfield Link Road).

4.5 At the time of writing, the proposals map for the 2016 Local Plan has not been published. An extract from the now superseded 2005 High Peak Local Plan is attached at Appendix **EP4**. This shows the broad location of both Phase 1 and Phase 2 of the Fairfield Link Road. The proposed modification identifying the extent of the current Hogshaw allocation and the revised settlement boundary taken from the 'Further Changes to the Policies Map' document dated December 2015 is provided under Proposition 2 of this Proof.

5. Planning policy context

National planning policy and guidance

National Planning Policy Framework (NPPF)

- 5.1 The Framework was published in March 2012 and I address relevant sections of it below.
- 5.2 At the heart of the NPPF, there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.
- 5.3 Paragraph 6 of the NPPF states that *"The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system"*.
- 5.4 Paragraph 7 states that *"There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:*

An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being;

An environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy."

- 5.5 Paragraph 14 states that for decision-taking the presumption in favour of sustainable development means:

- 1) *“approving development proposals that accord with the development plan without delay; and*
- 2) *where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
 - *any adverse impact of doing so would significantly or demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or*
 - *specific policies in the NPPF indicate development should be restricted.”*

5.6 Of particular relevance to the consideration of this appeal proposal are Sections 6, 8 and 11 of the Framework.

National Planning Practice Guidance (PPG)

5.7 The PPG was originally published in March 2014.

Development plan context

5.8 The development plan comprises the High Peak Local Plan 2011-2031 (**core document CD2.1**), which was adopted in April 2016 after the issue of the Decision Notice.

High Peak Local Plan

5.9 The appeal site is situated in the open countryside adjoining the settlement boundary of Buxton.

5.10 Policies referred to on the Decision Notice are:

- H1: Location of housing development.
- H5: Rural exception sites.
- S7: Buxton Sub-area strategy.
- EQ2: Landscape character.
- EQ3: Rural development.
- EQ5: Biodiversity.
- CF7: Planning obligations and community infrastructure levy.

5.11 The following policies are also considered of relevance:

- S1: Sustainable development principles.
- S1a: Presumption in favour of sustainable development.
- S2: Settlement hierarchy.
- S3: Strategic housing development.
- H2: Housing Allocations.
- H3: New housing development.
- H4: Affordable housing.
- EQ6: Design and place making.
- EQ9: Trees, woodland and hedgerows
- EQ11: Flood Risk Management
- CF4: Open Space, Sports and Recreation Facilities.
- CF6: Accessibility and transport.
- DS17: Land at Hogshaw, Buxton

5.12 The background to the formulation of the wording for Policy H1 is relevant to the determination of this appeal. As originally drafted by the Council this policy did not include any flexibility in terms of windfall sites beyond the established settlement boundaries through the submission version of the local plan. During the course of the examination hearings, and further to representations made regarding the lack of any flexibility in the housing trajectory for the emerging local plan, the Council proposed the following main modification to Policy H1 such that it would include the following text (April 2015):

“Where there is less than a five year land supply of deliverable housing sites, the Council will give consideration to approving sites outside the defined built up area boundaries, taking into account other policies in this Local Plan, provided that:

- *The development would be adjacent to the built up area boundary and be well related with 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 infrastructure can meet the additional requirements arising from the development."*

5.13 The Local Plan Inspector did not consider this went far enough. He wrote to the Council on 23rd October 2015 (**core document CD3.7**) suggesting his own main modification to the wording of Policy H1 of the adopted local plan. The Inspector noted the point made by those represented at the examination hearings that Policy H1 would become out-of-date in accordance with paragraph 49 of the NPPF in the absence of a five-year housing land supply. Accordingly, Policy H1 worded in the way in which the Council suggested would have been entirely ineffective. Instead, the Inspector suggested the removal of reference to the absence of a 5-year housing land supply in order to assist the Council in meeting the windfall requirement and this is reflected in the adopted version of the local plan. The provisions of this policy therefore apply regardless of the absence of a 5-year housing land supply in order to provide the Council with some flexibility in order to meet their overall housing requirements. Paragraph 68 of the Local Plan Inspector's report (**core document DC3.1**) states the following with respect to Policy H1 of the adopted local plan:

"The Council's suggested modification to Policy H1 included an appropriate commitment to review the Local Plan if necessary to bring forward additional sites for housing. It also proposed that where there is less than a 5-year supply of deliverable sites the Council would give consideration to approving sites adjacent to built up area boundaries where various criteria are met. However, the Framework requires Councils to plan positively and to identify a 5-year supply of deliverable sites. As Policy H1 is clearly a policy for the supply of housing it would be regarded as out of date if the required supply could not be demonstrated. The policy would be ineffective therefore and, as such, it is inappropriate to plan for failure in this way. However, sustainable sites that meet the specific and limited circumstances consistent with the criteria proposed in the Council's modification would assist in meeting the windfall requirement. I have therefore amended the suggested modification to enable such sustainable sites to be considered even if there is a 5-year supply."

Other material considerations

Landscape Character Assessment Supplementary Planning Guidance (March 2006) (Core document CD3.12)

5.14 The purpose of the SPD is to provide guidance for the design of new developments and alterations to existing developments, including associated landscape design. It covers rural parts of the High Peak outside the Peak District National Park. The SPD identifies the site within the Moorland Fringe landscape character area.

Wardell Armstrong Landscape Impact Assessment (January 2014) (core document CD3.2 and CD3.3)

5.15 Wardell Armstrong (WA) was commissioned by High Peak Borough Council in order to produce a Landscape Impact Assessment (LIA) as part of the evidence base for the local plan, which was adopted in March 2016. WA published their LIA in January 2014 and it assesses the landscape potential at the time for sites identified for development by the Council and other sites at the edge of identified 'Market Towns' or 'Larger Villages' as listed in the High Peak Preferred Options Settlement Hierarchy (February 2013) only.

5.16 The LIA produced by WA was very much 'broad-brush' in its approach to assessing the potential for sites to accommodate development in landscape terms. This was clarified during the Local Plan Examination Hearings in February 2015. Indeed paragraph 6.1.20 of the LIA states:

"The assessment of land within the Areas of Search was undertaken at a strategic level. It should be noted that within the Areas of Search categorised as being unsuitable for development there will inevitably be variations in the level of landscape impacts. Such variations could be determined by further more detailed survey at the field level."

5.17 The Landscape Impact Assessment (LIA) concludes that the site is located within a much wider area of search which could not accommodate development in landscape terms. It states:

"Land to the north [of Buxton] is extremely open, elevated and visually prominent. Development would have a high impact on the setting of the National Park. The approach into Buxton along the A6 is considered unsuitable for development due to its importance for the setting and character of the settlement."

5.18 It is of note that a number of sites identified as being within an 'Area of Search which could not accommodate development in landscape terms' have either been identified in the adopted Local Plan or granted planning permission.

5.19 The Hogshaw allocation is addressed on page 75 of the LIA and an extract is attached at **EP5**. It states that:

"...The south-west of the site is at a low elevation and extremely undulating. The north and east of the site is flat and at a higher elevation but partially screened by topography and existing development. Development within the north-east of the site (B3) would have significant landscape impacts and an

adverse impact on the setting of the National Park as this area has high visual prominence."

- 5.20 Another site identified in the LIA as having significant landscape impacts is land at Foxlow Farm, Ashbourne Road, Buxton. This site has been subsequently granted outline planning permission for up to 375 dwellings on 4 November 2013 (HPK/2013/0603). An extract from the LIA is attached at **EP6** and a copy of the committee report is attached at **EP7**.
- 5.21 Furthermore, outline planning permission was granted on 11 November 2014 for residential development for up to 275 dwellings, public open space, crèche, sports pavilion, access and association infrastructure at land at Burlow Road and Heathfield Nook Road, Harpur Hill (HPK/2014/0403). An extract from the LIA is attached at **EP8** and a copy of the committee report is attached at **EP9**. The planning officer stated at paragraph 4 that:

"With respect to the emerging Local Plan, the application site continues to lie within the open countryside, having been rejected at the Preferred Option stage for inclusion within the Plan, due to its sustainability score (Sustainability Appraisal Report 2013). Furthermore, the site was examined in the Landscape Impact Assessment January 2014, whereby it was rejected due to its elevated and open appearance and the visual prominence of the site..."

6. Proposition 1

The proposal complies with the relevant policies in the Development Plan and there are no material considerations to indicate that planning permission should not be granted.

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 The development plan context for the High Peak has changed since the appeal proposal was refused planning permission in February 2016. The development plan now comprises the High Peak Borough Local Plan 2016. The decision notice states that the proposal would be contrary to 7 policies which are discussed below.

Policy S7

- 6.3 By way of background, Policy S2 states that development will be directed towards the most sustainable locations in accordance with the settlement hierarchy set out in the policy. Buxton is identified as one of five market towns which are the main focus for housing, employment and service growth, consistent with maintaining and where possible enhancing their role, distinctive character, vitality and appearance.
- 6.4 Policy S7 of the adopted Local Plan then deals with the Buxton sub-area. It states that the council and its partners will seek to establish Buxton as England's leading spa town and consolidate its role as the principal service centre for the Peak District.
- 6.5 The explanatory text to the policy states at paragraph 4.127 that:
- "The relative self-containment of Buxton and the provision of accessible services and facilities within the town make it a sustainable location for accommodating a proportion of the Local Plan housing growth. There are substantial areas of land within and around the edge of the town which can accommodate new development and contribute to sustainable economic growth and support the regeneration of certain areas."*
- 6.6 The second part of the policy states that it will provide for the housing needs of the community by planning for sustainable housing and mixed-use developments in four ways:

- **Allocating a range of suitable, deliverable housing sites sufficient to meet the requirements of the Buxton sub-area, including the delivery of appropriate levels of affordable housing.**

6.7 There is no conflict with this part of the policy. I discuss later in this proof the allocations proposed for Buxton and the contribution this site would make in ensuring that the requirement of the Buxton sub-area is met. It should be noted in general that the council relies on small scale windfall sites through the plan period to meet its needs.

- **Supporting the development of new housing on sustainable sites within the built up area boundary primarily in Buxton.**

6.8 There is no conflict with this part of the policy. The appeal site is adjacent to but not within the built up area boundary. This criterion does not preclude development outside the built up area but is positively worded to support development within it. I refer to the more detailed consideration of development outside settlement boundaries set out in Policies EQ3 and H1 below.

- **Ensuring that residential development avoids the adverse impact on the integrity of the Peak District Moors (South Pennine Moors Phase 1) Special Protection Area and the Peak District Dales Special Area of Conservation.**

6.9 There is no conflict with this part of the policy. The South Pennine Moors Phase 1 SPA covers an area of land within the Goyt Valley to the west of Buxton. The site is not in close proximity to the designation and would have no impact upon it. The Peak District Dales Special Area of Conservation is exclusively within the National Park boundaries to the east of Buxton. Again, the development would have no impact on this designation.

- **Supporting the provision of indoor and outdoor sports facilities having regard to the Councils Sport and Recreation Strategies.**

6.10 There is no conflict with this part of the policy. In fact the proposal would support the provision of outdoor sports facilities through the relevant section 106 obligation.

Policy EQ2

6.11 Policy EQ2 relates to landscape character and states that the council will seek to protect, enhance and restore the landscape character of the Plan area for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the Plan Area.

- 6.12 The 2016 Local Plan no longer has areas of special landscape value but instead sets out landscape character types for the entire borough in accordance with the council's Landscape Character Supplementary Planning Document. It is of note that the site did not fall within an area of landscape protection in the earlier Local Plan.
- 6.13 I refer to the evidence of Mr J Berry with respect of landscape matters. This concludes that given the relatively small scale of the proposals, the lack of any loss of key characteristic features, the scope for perceptual changes to affect a limited geographical area and limited number of receptors, the scope for ensuring the detailed development proposals can respect the adjoining townscape edge, and the fact that the development would not be incongruent of the adjacent character context, there is no reason why the proposals would not be compliant with Policy EQ2.

Policy EQ3

- 6.14 Policy EQ3, Rural Development, states that outside the settlement boundaries and sites allocated for development, the council will seek to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness including the character, appearance and integrity of the historic and cultural environment and the setting of the Peak District National Park whilst also facilitating sustainable rural community needs, tourism and economic development. The policy lists 8 forms of residential development that would be allowed which includes development in accordance with Policy H1.
- 6.15 I demonstrate under Proposition 2 that the proposal is in full accordance with Policy H1.

Policy EQ5

- 6.16 Policy EQ5 relates to Biodiversity.
- 6.17 The site is not of international, European or national importance. There are no SSSIs either on or close to the site. Furthermore, there are no regionally or locally designated sites on the site or nearby.
- 6.18 There would be no detrimental impact in terms of biodiversity and the requirements of Policy EQ5 are met.

Policy CF7

- 6.19 Policy CF7 relates to planning obligations and the community infrastructure levy. Any non-compliance with this policy will be resolved through the execution of a section 106 agreement to address matters raised by the local planning authority.

Policy H5

- 6.20 Policy H5 which is referred to on the decision notice relates to proposals for affordable housing on rural sites that would not normally be released for housing. This policy is not of relevance to the appeal proposals.

Summary of Proposition 1

- 6.21 The proposal would comply with policies S7, EQ2, EQ3, EQ5, CF7 and H1 (addressed below). Policy H5 is not of relevance to the appeal proposals.

7. Proposition 2

The proposed residential development relates to a sustainable edge-of-settlement site and would be fully compliant with Policy H1 of the adopted Local Plan

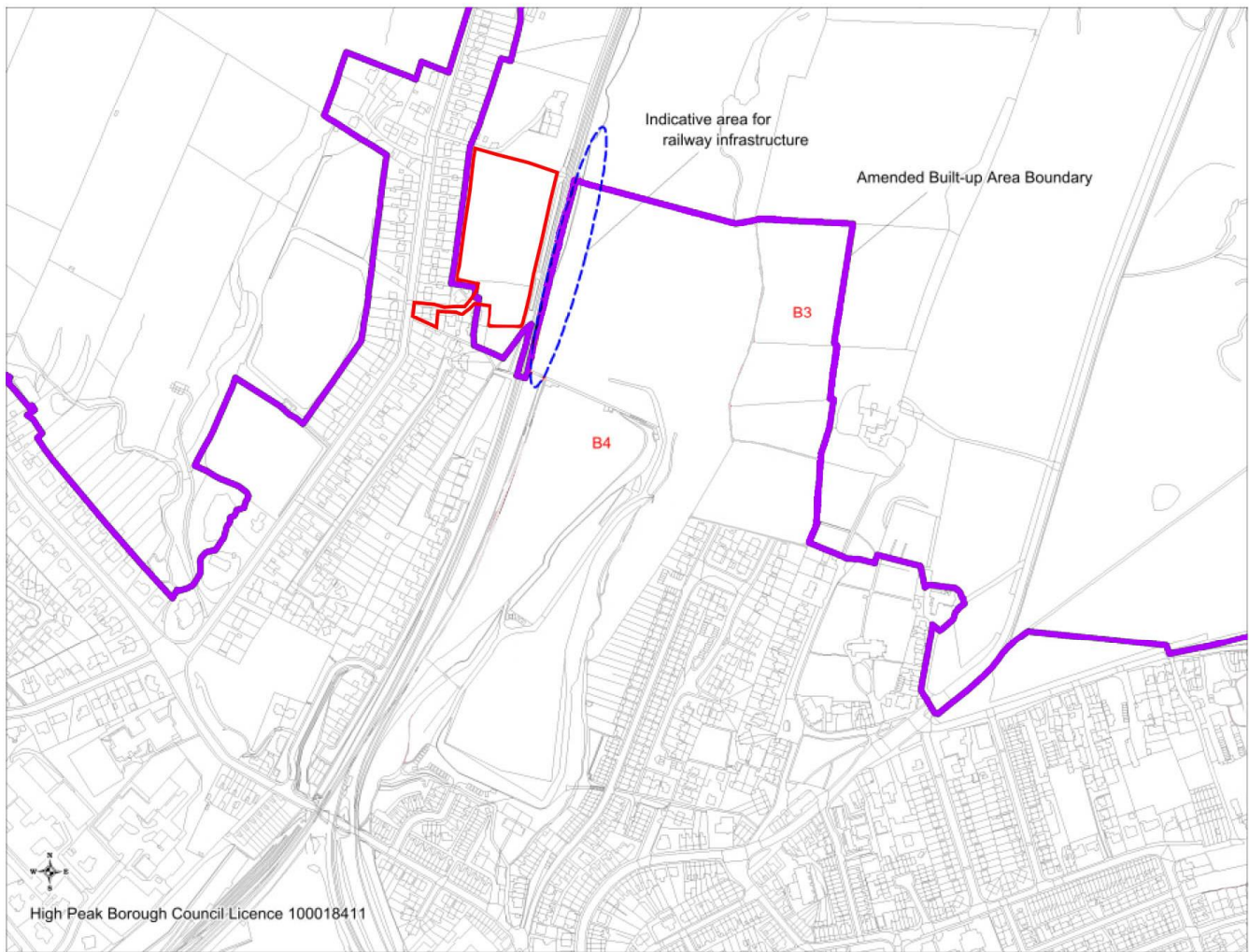
- 7.1 The background to Policy H1 of the adopted local plan is provided at Section 5 of this Proof in terms of the Local Plan Inspector's suggested modification to the wording such that it is permissive of the release of sustainable sites outside of the defined built-up area boundaries regardless of there being a 5-year housing land supply, subject to the following criteria being met :
- The development would adjoin the built up area boundary and be well related with 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
- 7.2 The purpose of the Local Plan Inspector's suggested main modification, which was accepted by the Council, was to provide some flexibility to assist in meeting the housing trajectory for the local plan. Even if a five year housing land supply does exist, this should not be a 'cap' on development. The NPPF requires local planning authorities to 'boost significantly' housing land supply and a 5-year supply should not be considered a ceiling on housing provision.
- 7.3 This is particularly pertinent with regard to Buxton which is heavily reliant on the delivery of 5 allocations to meet the housing requirement.
- 7.4 The Local Plan indicates that allocations in Buxton will deliver between 1,136 - 1,526 new homes (Policy S3, Table 3). Policy H2 of the Local Plan allocates 9 new housing sites in the Buxton sub-area with a total capacity of 1,255. Of these 9 allocations, the delivery of housing in Buxton is heavily reliant on 5 large sites (Policy H2):
- Land at Hogshaw (Policy DS17) - 124 dwellings

- West of Tongue Lane (Policy DS18) - 139 dwellings
- Land off Dukes Drive (Policy DS19) - 338 dwellings
- Foxlow Farm (Policy DS20) - 440 dwellings (has planning permission)
- Harpur Hill College (Policy 105) - 105 dwellings

- 7.5 A total of 1,146 dwellings will be delivered on these 5 sites which equates to 82% of the maximum allocated supply for Buxton. Notwithstanding the indicative phasing shown in the Local Plan, it is unlikely that the majority of the sites will be completed until the latter part of the plan period. There are concerns regarding the deliverability of these larger sites. Indeed the Plan and Site Viability Study has also identified issues over access to serve several of these major housing allocations which appears highly likely to undermine delivery in later plan phases.
- 7.6 Our representations to the emerging plan set out that the local planning authority needs to release a number of smaller sites for development in Buxton to ensure delivery early in the plan period, flexibility in the supply and support the wider plan aims of providing for the housing needs of the community and encouraging the growth of local employment opportunities.
- 7.7 Furthermore, the council relies on the delivery of windfall sites such as the appeal site to meet its 5 year supply. Policy S3 indicates that 400 dwellings on small sites will be delivered in the Buxton sub-area over the plan period (300 in Buxton itself and 100 in the surrounding villages). The housing trajectory dated September 2015 assumes that dwellings will start to be delivered on small sites in the Buxton area from 2018/19 onwards at a rate of 30 to 31 dwellings per annum. Policy H1 enables the delivery of such windfall sites and without permissions being granted pursuant to it, it is likely to be impossible for the Council to meet its housing trajectory.
- 7.8 I turn to each of the four listed criteria in Policy H1 below.

Relationship to the built up area boundary, pattern of development and settlement of Buxton

- 7.9 The relationship of the appeal site (shown in red) to the settlement boundary can be seen on the extract from the 'Further Changes to the Policies Map' document dated December 2015 below.



- 7.10 The appeal site immediately adjoins the existing settlement boundary to the west.
- 7.11 The site is next to the settlement boundary to the east, albeit the railway line runs between the site boundary and the adjacent allocation. To the south, the edge of the site is separated from the settlement boundary by a parcel of land extending to approximately 20 metres in length.
- 7.12 The appeal site is broadly adjacent to the settlement boundary on three sides. The committee report for the appeal application agreed that the proposals would adjoin the built up area boundary.
- 7.13 The site is in an entirely appropriate location for new development adjoining the existing settlement boundary. The site is landlocked by residential development and the railway line and unsuitable for agricultural use. It is a logical extension to the existing settlement, contained

by existing and proposed development on all sites. Furthermore, the enclosed nature of the site means it does not have the typical characteristics of 'open countryside'.

- 7.14 Turning to issues of scale, the scale of development proposed is entirely commensurate with the scale and nature of Buxton. The adopted Local Plan seeks to direct new growth to the main market towns of which Buxton is one. With a population of over 21,000 people, the Local Plan proposes that Buxton will take the largest proportion of the new growth of the three sub-areas. Policy H3, Strategic Housing Development proposes between 1,136 and 1,526 new homes for Buxton over the plan period of 2011-2031. The 20 houses proposed on this site represents a low proportion of the number of existing properties within the settlement and equates to 1.3% of the number of properties proposed over the plan period. There can be no question that the scale of the development proposed is appropriate for the existing settlement.
- 7.15 The proposed development satisfies the first bullet point of the windfall policy outlined through Policy H1 of the adopted local plan.

Impact on the character of the countryside and landscape impact

- 7.16 The second criterion requires that development would not lead to **prominent** intrusion into the countryside or have a **significant adverse** impact on the character of the countryside. This is the only criterion of Policy H1 which the Council has suggested the appeal scheme does not comply with.
- 7.17 I do not consider that the proposal can reasonably be described as a prominent intrusion into the countryside. It effectively adjoins the settlement boundary on three sides and is adjacent to the curtilage of a residential property to the north.
- 7.18 The 2016 adopted Local Plan amends the proposals map to include the Hogshaw allocation to the east of the appeal site within the settlement boundary. This means that the settlement boundary now wraps around three sides of the appeal site, with other development on the one remaining side.
- 7.19 The Hogshaw allocation (Policy DS17) is of relevance to the landscape context of this site. It extends to 13.7 ha and is allocated for the development of approximately 124 dwellings including public open space, and for recreation and amenity space. Part of the site is also safeguarded to facilitate the extension of the railway sidings.

7.20 The explanatory text to Policy DS17 states at paragraph 6.92 that:

“the site lies in a shallow valley between existing areas of housing. It is visible from Brown Edge and Combs Edge to the west, but not from the A6 to the east. The topography is such that it can be developed without adverse impact on the landscape of the Peak District.”

7.21 The Hogshaw allocation falls within the same area of search considered by Wardell Armstrong as the appeal site. The council has been through a process whereby it has appraised the suitability of sites B3 and B4 for development and concluded them to be acceptable in landscape terms.

7.22 It is not known at present how the Hogshaw site will be developed. An indicative plan was produced by the council as part of the evidence base to the High Peak Local Plan Examination and shows that the dwellings would be developed on the eastern part of the site. A copy of this drawing is attached at **EP10**.

7.23 The associated infrastructure required to deliver the Hogshaw allocation is also of relevance. The delivery of the housing site is dependent upon the new roundabout at Fairfield Common (which has a resolution to grant) and a local distributor road of approximately 265m leading from the roundabout to the Hogshaw allocation.

7.24 Emery Planning made representations to the Submission Version of the Local Plan which raised concerns with the viability and therefore deliverability of the Hogshaw allocation within the plan period rather than its locational suitability for development. However, the council remains confident that the site is deliverable in the plan period.

7.25 Whenever the proposed housing allocation and associated infrastructure is developed, there will clearly be a change in the character of the surrounding landscape.

7.26 The development of the allocation of land to the east of the railway line for housing would result in the site being surrounded on all sides by residential development. This would therefore be the context in which the appeal site would be experienced.

7.27 The other disputed matter with regard to Policy H1 therefore is whether it would have a ‘significant adverse’ impact on the character of the countryside.

7.28 I refer to the Proof of Evidence of Mr Jon Berry, regarding landscape matters and the potential impact on the character of the countryside, which includes an assessment of the appeal proposal from a number of close, medium and long-distance viewpoints within the surrounding area. The points made through Jon Berry's Proof of Evidence are summarised as follows:

- The Appeal Site is not physically or visually prominent, occupying topographic ground levels consistent with the existing settlement;
- The Appeal Site is visible from a localised geographical area, and where the appeal proposals would be visible, these would be viewed within the context of the existing settlement edge, and against the backdrop of the existing development along Brown Edge Road;
- The outline proposals indicate that the site can accommodate new housing in combination with restricted building heights to ensure low visual prominence. As a result, this would not materially harm the character and appearance of the area.

7.29 The proposed development satisfies the second bullet point of the windfall policy outlined through Policy H1 of the adopted local plan.

Accessibility to schools, medical services, shops and other community facilities

7.30 The site is situated immediately adjacent to the settlement boundary of Buxton which has a full range of services and facilities available in the town centre.

7.31 Brown Edge Road is served by two bus services which stop either at Ladycroft (approximately 160m from the site) or Nursery Drive (approximately 150m from the site entrance). The 76 bus has 4 buses a day running along this route. The 193 bus has one bus a day running along this route.

7.32 The train station is approximately 1200m from the site and offers a regular service to Manchester.

7.33 The site is approximately 500m from St Annes' Primary School and 750m from St Thomas More Secondary School.

7.34 The majority of Buxton town centre falls within 1.2km and 2km of the site making journeys by foot or cycle a realistic alternative to the private car. All facilities within the town centre are therefore within walking or cycling distance of the site.

- 7.35 The suitability of this location for additional residential development was confirmed by the grant of planning permission for the 5 units at Brown Edge Close. Furthermore, the allocation and proposed allocation of land on the opposite side of the railway line to the east confirms that the council has assessed this general area as being suitable for development.
- 7.36 The Council agrees with the appellant that the site is within walking distance of the town centre and is a sustainable location suitable for housing as confirmed by the committee report.
- 7.37 In summary, the application site is situated in an accessible location within a main market town.

Local Infrastructure impacts

- 7.38 There is no evidence to suggest that local infrastructure cannot cope with the number of dwellings being proposed as part of this appeal. There have been no objections from consultees for the planning application and no requests made for contributions towards local infrastructure within the surrounding area e.g. schools, highways and medical services.

Summary of Proposition 2

- 7.39 The proposed development is fully compliant with the provisions of Policy H1 of the adopted local plan, which is the principal policy for the development in terms of windfall developments.
- 7.40 The land at Brown Edge is one such site which could complement the overall housing strategy ensuring the early delivery of housing.
- 7.41 The proposed development of the site for residential purposes is consistent with the emphasis of the NPPF on positive growth and boosting the supply of housing.
- 7.42 I conclude that the proposal accords with the provisions of the development plan.

8. Proposition 3

The proposal would respect the local landscape character

- 8.1 Paragraph 109 of the NPPF requires the development to contribute and enhance the natural and local environment by protecting and enhancing valued landscapes amongst other things.
- 8.2 Paragraph 113 of the NPPF states that local planning authorities should set criteria based policies which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.
- 8.3 This site is not subject to any national, international or local designation. Nor has the landscape been identified as a 'valued landscape'. As noted above, in the previous Local Plan it was not an area of landscape protection.
- 8.4 The council's reason for refusal relates solely to landscape impact and is broken into 3 parts:
- The development would be visually intrusive in the landscape and fail to respect local landscape character.
 - The development would result in an undesirable expansion and encroachment into the open countryside, outside the built up area boundary for Buxton.
 - The development would erode the visual appearance and character of the open countryside.
- 8.5 I refer to the evidence presented by Mr J Berry with respect of landscape matters and the potential impact on the visual appearance and character of the open countryside. The key points made in Mr Berry's evidence are summarised as follows:
- The Appeal Site is not a valued landscape and therefore paragraph 109 of the NPPF is not engaged (this is not part of the council's case nor is it stated within the reason for refusal).
 - The Appeal Site does not represent a particularly sensitive or highly valued landscape by virtue of its lack of any international or national designation.
 - The Appeal Site is not covered by a local qualitative landscape designation.

- The Appeal Site is not fundamental to defining the landscape character of the Moorland Fringe Character Type which it is identified within. Although it does contain typical features these are less intact and the appeal site is less sensitive than other more remote parts of the Moorland Fringe landscape.
- The northern settlement fringe of Buxton has already changed through the presence of other recent developments, and the susceptibility of the Appeal Site to change of the nature proposed is influenced by the allocated land at Hogshaw and the consented Fairfield Link Road scheme.
- The appeal proposals provide for an indicative layout which follows the grain and layout of the adjacent urban development, and ensures the retention of the few characteristic features present on site.
- The appeal proposals will result in a change to the land use and character of the site. However, those changes will be limited in extent, and consistent with the pattern and grain of Buxton.
- Effects on landscape character would be very much localised and the development response is considered to be characteristic of the adjoining townscape edge.

8.6 The proposed development would not, in my view, result in any significant harm to the character and appearance of the area and the wider countryside.

Summary of Proposition 3

In summary, the evidence of Mr J Berry has set out that the appeal proposals would only affect a limited geographical area, and would be consistent with the adjoining urban grain and pattern of the existing settlement edge.

9. Proposition 4

a) The council cannot demonstrate a deliverable five year supply of housing land in accordance with paragraph 47 of the Framework and new housing is therefore needed now to address the significant shortfall; and

b) All development plan policies relevant to the supply of new housing development should be considered to be out-of-date in accordance with paragraphs 49 and 14 of the Framework

- 9.1 I have demonstrated through this Proof of Evidence that the appeal proposal is fully compliant with the provisions of the development plan.
- 9.2 Notwithstanding this, Mr Pycroft's evidence concludes that the Council cannot demonstrate a deliverable five year supply of housing land as required by paragraph 47 of the NPPF.
- 9.3 Paragraph 3-033 of the PPG confirms that the demonstration of a deliverable five year supply of housing land is a key material consideration in the determination of planning appeals. The absence of a demonstrable five year supply is therefore a material consideration which weighs in favour of the appeal proposal. New housing is required across the Borough now in order to address the shortfall.
- 9.4 The implications of the absence of a five-year housing land supply are that all policies of the development plan that serve to restrict the location of new housing should be considered out-of-date for the purposes of paragraphs 49 and 14 of the Framework. For the purposes of this appeal, Policies H1, H2, EQ3 and S3 are considered out of date.
- 9.5 In accord with paragraph 14 of the NPPF, unless adverse impacts that would significantly and demonstrably outweigh the benefits can be demonstrated then the presumption is that planning permission ought to be granted.
- 9.6 The proposal would assist the local planning authority in meeting an identified need and is in accord with the aims and objectives of the NPPF in boosting the supply of housing in context of the presumption in favour of sustainable development.

10. Proposition 5

The proposal represents a high quality development in a sustainable location which would deliver a range of social, economic and environmental benefits in accordance with paragraph 7 of the NPPF

- 10.1 The Framework includes a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision taking (paragraph 14). Having assessed the various planning considerations, I assess the appeal against the three roles that comprise sustainable development as set out in paragraph 7 of the Framework:

An economic role

- 10.2 The proposed development would support construction-related jobs as a direct consequence and it would have positive impacts on the supply-chain with increased householder spend on the local economy on goods and services. The proposal would also bring about a New Homes Bonus Payment and a boost in council-tax receipts.
- 10.3 The economic role of sustainable development is met.

A social role

- 10.4 There are three strands to this criterion. The first is accessibility, the second is the provision of houses where required and the third is supporting strong, vibrant and healthy communities.
- 10.5 The site is located immediately adjacent to Buxton, one of the key towns and focus for development in the adopted and emerging development plan.
- 10.6 In terms of accessibility, Buxton contains a range of essential facilities and services including primary schools, secondary schools and University of Derby campus, leisure centre, hospital, hotels, employment opportunities, convenience and comparison shops, train station and bus services.
- 10.7 There is a need for both market and affordable housing in the High Peak and Buxton. I have already addressed how this development would contribute to the overall supply of housing land elsewhere within this statement. In terms of affordable housing, the Strategic housing Market Assessment and Housing Needs Study prepared by NLP (April 2014) indicates in table

12.1 that there is a net annual affordable need of 526 dwellings per annum taking into account the backlog. The application is proposing the provision of 6 affordable homes which will make a small but important contribution towards meeting the affordable housing need. The provision of 20 new homes, 6 of which are affordable would play an important social role in supporting strong, vibrant and healthy communities and is a significant social benefit which should be given considerable weight in the consideration of the appeal proposals.

10.8 The social role of sustainable development is met.

An Environmental Role

10.9 The NPPF states that development should be restricted on sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion. None of these apply to the application site.

10.10 Whilst the site is greenfield, it is landlocked by residential development and the railway line, is not in agricultural use and does not form part of any agricultural holding, is only 1.4 hectares in size and there is no prospect of it being put to agricultural use.

The Planning Balance

10.11 In this Proof of Evidence I have assessed the various planning considerations. For the purposes of paragraph 14 the benefits from the appeal are as follows:

- The delivery of new housing in an authority which has an under supply of both open market and affordable housing.
- Development in a sustainable location close to the wide range of services and facilities in Buxton.
- The delivery of affordable housing which accords with the development plan and will contribute towards the significant need (including backlog) in High Peak.
- A high quality design and landscape led scheme that has responded to officer's concerns with previous applications on the site.
- The provision of New Homes Bonus and Council Tax revenues.

- 10.12 Against this range of significant benefits is the loss of a greenfield site, albeit one which is surrounded by existing development or allocated land and as such does not have the characteristics of 'open countryside'. This statement has demonstrated that a reason for refusal on this basis is not supported by policy. For the purposes of paragraph 14 of the Framework, any harm arising from the loss of the greenfield land would not outweigh the significant benefits that are proposed and can be delivered as part of this appeal.
- 10.13 Therefore to conclude, the proposed development meets the criteria in the NPPF and is sustainable development. This is a wholly appropriate and logical place for development to meet the significant housing need across High Peak and Buxton specifically.
- 10.14 The proposal represents sustainable development as defined by paragraph 14 of the Framework and as such there should be a presumption in favour and accordingly, planning permission should be granted in accord with Section 38(6) of the Planning and Compulsory Purchase Act 2004.

11. Proposition 6

There are no other site specific or policy considerations which would prevent planning permission from being granted in accordance with the guidance in paragraph 14 of the NPPF.

- 11.1 There are no other planning, environmental or technical considerations that would prevent planning permission being granted. The matters addressed below did not form part of the reason for refusal.

Ecology

- 11.2 A phase I ecology survey by Rachel Hacking ecology accompanied the planning application. This concludes that no further protected species surveys are required at the site. However, depending on the timing of the vegetation clearance works, additional surveys may be needed. No objection was raised by Derbyshire Wildlife Trust subject to conditions.

Highways and access

- 11.3 A transport assessment has been prepared by SCP Transport Consultants. This concludes that there can be no overriding highways objections to the proposals. There was no objection from Derbyshire County Council Highways subject to conditions.

Noise

- 11.4 An acoustic assessment has been prepared by Hepworth Acoustics. This concludes that railways exposure levels were found to be low and there are no constraints on the location of private gardens. No objection was made by environmental health.

12. Proposition 7

The proposed development would provide for the necessary infrastructure and/or financial contributions to meet the needs arising from the development.

Affordable housing

- 12.1 Policy H4 of the Local Plan states that residential developments of between 5 and 24 units should achieve 20% affordable housing.
- 12.2 The proposed scheme would make provision for 6 of the proposed residential units being affordable. This equates to 30% of dwellings on the site and is above the policy requirement.
- 12.3 The section 106 agreement will secure the provision of the affordable housing.

Open space

- 12.4 A contribution towards the fixed play equipment and open space/sports improvements at the Brown Edge Road area of open space. This will be secured by way of legal agreement.

13. Summary and conclusions

- 13.1 This Proof of Evidence is submitted on behalf of the Appellants in support of planning appeal APP/H1033/W/16/3155484.
- 13.2 In the first instance, this Proof demonstrates that the appeal proposal is fully compliant with the provisions of the development plan. Planning permission should therefore be granted without delay in accordance with paragraph 14 of the Framework.
- 13.3 Furthermore, Mr Pycroft's evidence demonstrates that there is a significant shortfall in deliverable housing land as required by paragraph 47 of the Framework. New housing is required across the Borough now in order to address the identified shortfall. In such circumstances, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits in accordance with paragraph 14 of the Framework.
- 13.4 I have undertaken the planning balancing exercise at Proposition 5 of this Proof of Evidence and conclude that the limited harm associated with the loss of a greenfield site, albeit one which is surrounded by existing development and as such does not have the characteristics of 'open countryside' would not significantly and demonstrably outweigh the range of significant and overriding benefits associated with the appeal proposal.

14. Appendices

- EP1. January 2015 committee report.
- EP2. February 2015 committee report.
- EP3. Fairfield Link Road committee report.
- EP4. Extract from 2005 Local Plan Proposals Map.
- EP5. Extract from LIA in relation to the Hogshaw allocation.
- EP6. Extract from LIA in relation to Foxlow Farm.
- EP7. Foxlow Farm committee report.
- EP8. Extract from LIA in relation to Burlow Road.
- EP9. Committee report for Burlow Road.
- EP10. Indicative layout for Hogshaw allocation.