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**Mr A Davies**  
**88 North Road**  
**Glossop**

### **Response to LPA Statement of Case**

### Introduction

Inspectorate Reference Number – APP/H1033/W/17/3169199

Local Authority Reference Number – HPK/2016/0543

Site Address – Land adjacent Talbot House, Talbot Road, Glossop, SK13 7AX

The Following Statement is provided in response to the submission of the Local Planning Authorities Statement. The Authorities Statement of Case is considered to be formed upon subjective opinion and considerations with an absence of evidence based facts to support the contention that the proposal would be harmful to the Character and Appearance of the Conservation Area.

For the purpose of clarity, I shall respond to each paragraph of the LPA Statement in turn.

## Comments

Section Headers 1.0 through to 5.0 sets out the site, the surrounding area, proposal and relevant Policies, no comments are considered necessary in relation to the paragraphs contained within each heading.

### Impact on Conservation Area

**Para 6.2** – *‘to include a long ribbon of detached and semi-detached housing ascending North Road, set within generous, mature gardens and the tree covered semi-wooded grounds to Talbot House fronting Talbot Road’*. This description of the immediate surrounding area sets out the Character and Appearance as identified by and in the opinion of the Authority, it is our contention that this description is reflective of how the appeal site would be viewed once developed. I have underlined the key words used by the Authority, it is our contention that the proposed development would be a detached dwelling set within generous mature garden with the semi-wooded appearance to the front. The proposal therefore would be sensitive to and in keeping with the Conservation Area

**Para 6.3** – *‘The mature woodland’*. This description of the site is considered inconsistent with the previous notion within Para 6.2 of a *‘semi-wooded grounds’*. The proposed development site is not considered to be a woodland or is it considered to be mature, ages of trees have been identified in both the Arboricultural Report and the Appeal Statement, it is clearly evidenced that the tree coverage is in its early stages of maturity and the semi-wooded nature of the site is to be retained with the loss of only a Sycamore and Maple which are to be replaced with an Oak.

*‘Prominent coursed stone wall with ball finial and gatepiers marking the entrances’* the boundary wall referred to is to be retained with existing tree coverage behind, a marginal alteration to the access point is proposed in terms of highway safety however the existing character and appearance of the site frontage will in essence be retained as it is and will therefore continue to contribute to key views within the area.

**Para 6.4** – *‘The proposed development would result in the removal of the central area of this woodland, an area which should be being managed as part of a condition attached to the approval for the construction of the two dwellings at the rear’.* There is no removal of the central area, this area is formed by brambles and self-seeded saplings, the management of the land will continue as per previously intended albeit it through the new property owners.

*‘The development will be close to surrounding trees and there may also be pressure in the future for the removal of further trees for improved lighting and on the grounds of safety’.* This contention is ambiguous and makes presumptions of future occupant’s intentions (*‘may’ is under lined by RBA Town Planning*) The suitably qualified and highly regarded Arboriculturalist John Booth sets out suitable justification and reasoning to demonstrate the position of the dwelling will not impact on the retained trees. This assertion is evidenced as opposed to the Authorities contention based upon presumption. It is unlikely that pressure will arise to remove trees within the future and that the tree coverage would be the properties unique selling point.

In the first instance, the NPPF is clear at paragraph 138 that not all elements of a Conservation Area will necessarily contribute to its significance. Impact should be considered as either substantial harm (under para 133) or less than substantial harm (under para 134) as appropriate taking into consideration the relative significance of the element affected. The National Planning Policy Guidance is clear that *‘substantial harm is a high test, and it may not arise in many cases’*. In relation to a Conservation Area the impact should be relative to the significance of the asset and its contribution to the Conservation Area. As demonstrated throughout the Planning Application and Appeal Statement the proposal results in the loss of a sycamore and maple that are to be replaced by an oak. It is in our opinion and that of the Arboriculturalist that this would be a suitable replacement. The remainder of the trees to be removed are sapling, brambles and scrub. This clearly does not result in substantial harm to the Conservation Area. The second is the uncertainty in which the Authority assess harm, in our opinion a “Likely” occurrence of an impact should not be afforded significant weight and determining applications based on likely hood and presumption does not accord to the principal aims of the NPPF. The NPPF States *great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.* It has already been determined by a previous Inspector that the appeal site holds little historic value and is not one of importance to the Conservation Area. In assessing harm, limited weight should be afforded to the perceived heritage asset, it is our opinion that the Authority have failed to demonstrate any significant harm to the Conservation Area given the site’s already established less than important status.

*The design includes a large gable facing towards Talbot Road which would not be in-keeping with the pattern of development along Talbot Road’.* This issue has in our opinion been clearly evidenced and highlighted within the Applications Design & Access Statement and the Statement of Case to support this appeal.

**Para 6.5-** to support the Authorities opinion outlined within this paragraph the Authority provide within Appendix 4 historic map excerpts with the site imposed, Map 1 of the Appendix 4 has the appeal site incorrectly positioned within the current grounds of Talbot House, the appeal site is located more to the west away from the tree coverage. Map 2 is considered to be more correct in terms site position. Photograph 4 of the same Appendix is also only an opinion and not accurately drawn to scale which offers little in terms of factual evidence.

**Para 6.7-** The Authority here in our opinion try to discredit a significant piece of factual evidence relevant to the case, whilst the Inspector’s comments and consideration at the time related to the proposal of the two dwellings to the rear of the site, the site at that time was as a whole and one parcel of land. It is our contention that the Inspector not only considered the historic importance of the trees within the Application site in 2004 but also as a wider parcel of land all within the same ownership. It is reasonable to assume that should one area of tree coverage within the land parcel have no historic importance the whole area would equally have no importance. It is our contention that the Inspector considered the wider parcel of land and that the Inspector’s assertion should be carried forward.

**Para 6.8-** These points raised within the Paragraph have been addressed further within this statement under 6.17, this in our opinion is also covered within the Inspector’s decision at points 11 and 16 which can be found within the Appendices of the main Appeal Statement.

**Para 6.9-** In terms of harm, harm is by definition *‘to have adverse effect’*. The proposal when considered in term of actual harm or ‘adverse effect’ is considered to have very little impact and seeks to preserve the Conservation Character through tree retention. Strong focus is made by the Authority on tree loss, however, the only tree loss is one of recently self-seeded sapling, brambles and scrub all of which would be part of its management. Tree retention is identified and evidenced within the respected Arboricultural report. As demonstrated above, the proposal fully accords with the NPPF and NPPG and clearly

**Para 6.10-** The Authority make the contention that the Appeal Site does not constitute previously developed land yet this notion is not cited within the Decision Notice as a reason for refusal. The Authority carried the same opinion in the determination of the application for the two dwellings to the rear of the site. The issue was raised with the Appeal Hearing in which the Case Officer agreed the site constituted Previously Developed Land, the appointed inspector concluded that the site was indeed previously developed by virtue of its former association and grounds of Talbot house School. The whole of the appeal site including the area to the rear which is now occupied by 2 dwellings formed part of the curtilage to Talbot House School, the land was split and sold but in essence still constituted curtilage and therefore previously developed. However, this is considered to be new material and not considered relevant to the Appeal.

**Para 6.17-** The Authority provide as Appendix 5 a series of Appeal Decisions relating to tree retention in close proximity to dwelling houses, whilst guidance can sometimes be taken from appeal cases each site should be taken upon its own merits and in cases where appeal decisions can be used as guidance the case should be relevant and have significant bearing. In this instance appeal decisions from a broad spectrum of cases including geographical considerations are not considered relevant or site specific, no details of the cases have been put forward including proximities or mitigation measures that were proposed. Our evidence base information provided is considered to be relevant and holds significant weight in the consideration of the proposal.

**Para 6.21-** *‘Realistically the proposal could only at best allow for the retention of some of the mature trees’*. The respected Arboriculturalist has evidenced mitigation measures to ensure tree retention within his report, the Authority contend that the mitigation measures are “unlikely” and “could only at best” allow for tree retention along the existing driveway however offer no supporting evidence to suggest the reasoning behind the assumption. The whole of this paragraph is worded with uncertainty and offers no reasoning or evidence.

**Para 6.23-** *'due to encroachment in to the RPA and changes in ground level across the site the following trees will be seriously impacted on by the proposals and they will be also be lost - T6, T11, T12 T14, T15 and T17'.* T6, T11 and T12 are all trees to be retained and mitigation measures have been provided with the tree report to demonstrate how the development will impact upon the RPA and how the roots will be protected. T14, T15 and T17 are trees outside of the appeal site and equally have been mitigated against in terms of loss or damage. The Authority have offered no alternative or provided any evidence base to contradict the measures put forward, it our contention that the Authority are again working on assumptions as opposed to evidence.

## **Conclusion**

It is our contention that the proposal is an acceptable form of sustainable development that would not result in any harm to the Conservation Area either within the immediate or wider context. Clear evidence and supporting documents have been provided both as part of the Planning Application and this Appeal that demonstrate the appropriate nature of the proposal.

It is considered that the Council have not put forward any clear or concise evidence to suggest otherwise but relay upon assumptions and likelihoods to support the reasons for refusal which in our opinion should carry little weight in the determination of the appeal.

The Authority have listed suggested conditions within the Statement of Case which are acknowledged and rightfully accepted in the event of Planning Consent being granted.

It is with respect that for the reasons outlined within this statement and our principal statement the Appellant asks that you conclude to allow the Appeal and grant conditional consent for the development.