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# High Peak Borough Council

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Application no: HPK/2018/0124

Determined on: 28<sup>th</sup> June 2018

## Town and Country Planning Act 1990 Town and Country Planning (Development Management Procedure) (England) Order 2015

### FULL PERMISSION FOR DEVELOPMENT

This permission does not carry any approval or consent which may be required under any enactment, bylaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act, 1990 (as amended).

#### Location of Development:

Buxton Mineral Water Station Road Buxton Derbyshire SK17 6AQ

#### Description of Development:

Proposed new access road to the Station Road site adjacent to Buxton train station. It is an extension to an existing road which provides access to a now vacant site

In pursuance of their power under the above mentioned Act, High Peak Borough Council Planning Authority, **HEREBY GRANTS PLANNING PERMISSION** for the development described above subject to the following condition(s):

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:-** To comply with the provisions of Section 51 of the Town and Country Planning, Planning and Compulsory Purchase Act, 2004.

2. This permission shall refer to the following approved plans:  
0206 – Access Road Proposed Block Plan  
0205 Site Location Plan  
0204 Proposed Site Plan

**Reason:** For the avoidance of doubt.

3. Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions **3a to 3c** have been complied with.





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**a) Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report shall be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

**b) Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**c) Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, submitted to and approved in writing by the Local Planning Authority.

**d) Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must





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be undertaken in accordance with the requirements of condition **3a**, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition **3b**. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition **3c**.

**Reason:** To protect public safety in accordance with Policy EQ10 of the adopted High Peak Local Plan 2016

4. There shall be no visible dust emissions beyond the site boundary associated with construction/demolition works undertaken at the site. In controlling dust on site, the contractor shall have due regard to the Building Research Establishment Document 'Control of Dust from Construction and Demolition Activities' (BR456)

**Reason:** In the interests of amenity and in accordance with Policy EQ10 of the adopted High Peak Local Plan 2016

5. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment. Any open fires that arise shall be extinguished without delay.

**Reason:** In the interests of amenity and in accordance with Policy EQ10 of the adopted High Peak Local Plan 2016

6. If piling is necessary a written method statement shall be submitted to the Local Planning Authority. This method statement shall be inline with Environment Agency guidance (Environment Agency (2001), Piling and Penetrative Ground Improvements on Land Affected by Land Contamination NC/99/73). The affects of noise generation (hours of operation) shall also be considered, and shall include noise mitigation measures consistent with best practical means. No piling shall take place until the method statement has been approved and piling shall only be undertaken in accordance with the approved method statement.

**Reason:** In the interests of amenity and in accordance with Policy EQ10 of the adopted High Peak Local Plan 2016

7. Unless prior permission has been obtained in writing from the Local Planning Authority, all noise-generating activities shall be restricted to the following times of operations.
  - 07:30 - 18:00 hours (Monday to Friday);
  - 08:30 - 14:00 hours (Saturday)
  - No working is permitted on Sundays or Bank Holidays.



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In this condition, a noise-generating activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

**Reason:** In the interests of amenity and in accordance with Policy EQ10 of the adopted High Peak Local Plan 2016

8. The best practicable means, as defined in Section 72 of the Control of Pollution Act 1974 to reduce noise and vibration from the site to a minimum, shall be employed at all times during construction.

**Reason:** In the interests of amenity and in accordance with Policy EQ10 of the adopted High Peak Local Plan 2016

9. No development shall take place including any works of demolition until a construction management plan or construction method statement has been submitted to and been approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for:

- Parking of vehicles of site operatives and visitors
- routes for construction traffic
- hours of operation
- method of prevention of debris being carried onto highway
- pedestrian and cyclist protection
- proposed temporary traffic restrictions
- arrangements for turning vehicles

**Reason:** in the interests of highway safety and to comply with Policy EQ6 of the adopted High Peak Local Plan 2016

10. Prior to the commencement of the development, surface water drainage details for the road hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the means to prevent the discharge of water from the development onto the highway. The approved scheme shall be undertaken and completed prior to the first use of the access and retained as such thereafter.

**Reason:** in the interests of highway safety and to comply with Policy EQ6 of the adopted High Peak Local Plan 2016

11. No ground/vegetation clearance works shall take place between 1st March and 31st August inclusive, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period (including ground nesting and other species) and the results submitted to and approved in writing by the Local Planning Authority. If nesting birds are present, details of measures to protect the nesting bird interest on the site should be submitted to and



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approved in writing by the Local Planning Authority and then implemented as approved.

**Reason:** In the interests of biodiversity and to comply with Policy EQ5 of the adopted High Peak Local Plan 2016

12. Prior to the commencement of development, a detailed lighting strategy shall be submitted to and approved in writing by the Local Planning Authority to safeguard adjacent green infrastructure and its functionality for nocturnal wildlife. This shall clearly show lux levels of lightspill around the proposed access road and provide details of the type of lighting and any mitigating features such as shields, hoods, timers etc. No lighting shall be installed except in complete accordance with the approved details

**Reason:** In the interests of biodiversity and to comply with Policy EQ5 of the adopted High Peak Local Plan 2016

### **Informatives**

1. The Local Planning Authority (LPA), in reaching this decision, has followed the guidance in paragraphs 186 and 187 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.
2. Pursuant to Section 163 of the Highways Act 1980, where the site curtilage slopes down towards the public highway measures shall be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dish channel or gulley laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
3. Pursuant to Section 278 of the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved in Section 278 Agreements may be obtained from the Strategic Director of Economy Transport and Community at County Hall, Matlock (tel: 01629 538658). The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 278 Agreement.
4. Under the provisions of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004, all works that involve breaking up, resurfacing and / or reducing the width of the carriageway require a notice to be submitted to Derbyshire County Council for Highway, Developer and Street Works. Works that involve road closures and / or are for a duration of more than 11 days require a three months notice. Developer's Works will generally require a three months notice. Developers and Utilities (for associated services) should prepare programmes for all works that are required for the development by all parties such that these can be approved through the coordination, noticing and licensing processes. This will require utilities





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and developers to work to agreed programmes and booked slots for each part of the works. Developers considering all scales of development are advised to enter into dialogue with Derbyshire County Council's Highway Noticing Section at the earliest stage possible and this includes prior to final planning consents.

5. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development.
6. Severn Trent have clean water apparatus within the proposed application site, the developer will need to contact Severn Trent Water Developer Services Team as detailed below to assess their proposed plans for diversion requirements.
7. Network Rail owns the access road referred to in the proposal and if any changes or works are required to the road this will require the agreement of Network Rail. The outside party / applicant will require Network Rail agreement to works/changes to the access in addition to any planning consent from the council.
8. On applications 124 and 120 the plan on page 16 of the Flood Risk Assessment shows the red line within Network Rail's land ownership on the northern boundary.
9. The outside party and the council are informed that there is to be no parking of construction vehicles or contractor vehicles on the access road at any time due to Network Rail and Northern Rail access requirements and all vehicles associated with the development must be parked on the development site. Network Rail and Northern Rail require access and egress on the road around the clock (24/7, 365) including weekends, night-time, bank holidays as well as for emergency vehicles.
10. When designing proposals, the developer and LPA are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary fence, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc) and boundary treatments which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability.
11. The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to: [AssetProtectionLNWNorth@networkrail.co.uk](mailto:AssetProtectionLNWNorth@networkrail.co.uk)
12. Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.



13. The developer/applicant must ensure that their proposal, both during construction and as a permanent arrangement, does not affect the safety, operation or integrity of the existing operational railway / Network Rail land. The works on site must not undermine or damage or adversely impact any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and boundary treatments. Any future maintenance must be conducted solely within the applicant's land ownership.
14. Any scaffolding which is to be constructed within 10 metres of the Network Rail / railway boundary must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffolding must be installed. The applicant / applicant's contractor must consider if they can undertake the works and associated scaffolding / access for working at height within the footprint of their land ownership boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, must have at least a 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.
15. If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement must be submitted to the Network Rail Asset Protection Engineer for agreement.
  - a. All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.
  - b. The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement
16. Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast. The developer must demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.
17. With a development of a certain height that may/will require use of a tower crane, the developer must bear in mind the following. Tower crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by Network Rail's Asset Protection prior to implementation. Tower cranes have the potential to topple over onto the railway; the arms of the cranes could over-sail onto Network Rail air-space and potentially impact any overhead lines, or drop materials accidentally onto the existing infrastructure. Crane working diagrams, specification and method of working must be submitted for review and agreement prior to work(s) commencing on site.





18. The applicant must ensure that the proposal drainage does not increase Network Rail's liability, or cause flooding pollution or soil slippage, vegetation or boundary issues on railway land. Therefore the proposal drainage on site will ensure that:
- All surface waters and foul waters drain away from the direction of the railway boundary.
  - Any soakaways for the proposal must be placed at least 30m from the railway boundary.
  - Any drainage proposals for less than 30m from the railway boundary must ensure that surface and foul waters are carried from site in closed sealed pipe systems.
  - Suitable drainage or other works must be provided and maintained by the developer to prevent surface water flows or run-off onto Network Rail's property.
  - Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
  - Drainage works must not impact upon culverts on developers land including culverts/brooks etc that drain under the railway.
  - The developer must ensure that there is no surface or sub-surface flow of water towards the operational railway.
19. Network Rail will need to review and agree all excavation and earthworks within 10m of the railway boundary to determine if the works impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree to the following:
- Alterations to ground levels
  - De-watering works
  - Ground stabilisation works
20. Network Rail would need to review and agree the methods of construction works on site to ensure that there is no impact upon critical railway infrastructure. No excavation works are to commence without agreement from Network Rail. The LPA are advised that the impact of third party excavation and earthworks can be different depending on the geography and soil in the area. The LPA and developer are also advised that support zones for railway infrastructure may extend beyond the railway boundary and into the proposal area; therefore consultation with Network Rail is requested. Any right of support must be maintained by the developer.
21. Network Rail requests that the developer ensures there is a minimum 2 metres gap between the buildings and structures on site and the railway boundary. Less than 2m from the railway boundary to the edge of structures could result in construction and future maintenance works being undertaken on Network Rail land. This would not be acceptable. All the works undertaken to facilitate the design and layout of the proposal should be undertaken wholly within the applicant's land ownership footprint.
22. The LPA and the developer (along with their chosen acoustic contractor) are recommended to engage in discussions to determine the most appropriate measures to mitigate noise and vibration from the existing operational railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings.
23. Network Rail is aware that residents of dwellings adjacent to or in close proximity to, or near to the existing operational railway have in the past discovered issues upon occupation of dwellings with noise and vibration. It is therefore a matter for the



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developer and the LPA via mitigation measures and conditions to ensure that any existing noise and vibration, and the potential for any future noise and vibration are mitigated appropriately prior to construction.

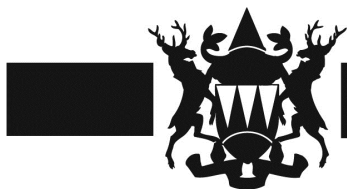
24. To note are:

- The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running, heavy freight trains, trains run at weekends /bank holidays.
- Maintenance works to trains could be undertaken at night and may mean leaving the trains' motors running which can lead to increased levels of noise and vibration.
- Network Rail carry out works at night on the operational railway when normal rail traffic is suspended and these works can be noisy and cause vibration.
- Network Rail may need to conduct emergency works on the existing operational railway line which may not be notified to residents in advance due to their safety critical nature, and may occur at any time of the day or night, during bank holidays and at weekends.
- Works to the existing operational railway may include the presence of plant and machinery as well as vehicles and personnel for works.
- The proposal should not prevent Network Rail from its statutory undertaking. Network Rail is a track authority. It may authorise the use of the track by train operating companies or independent railway operators, and may be compelled to give such authorisation. Its ability to respond to any enquiries regarding intended future use is therefore limited.
- The scope and duration of any Noise and Vibration Assessments may only reflect the levels of railway usage at the time of the survey.
- Any assessments required as part of CDM (Construction Design Management) or local planning authority planning applications validations process are between the developer and their appointed contractor.
- Network Rail cannot advise third parties on specific noise and vibration mitigation measures. Such measures will need to be agreed between the developer, their approved acoustic contractor and the local planning authority.
- Design and layout of proposals should take into consideration and mitigate against existing usage of the operational railway and any future increase in usage of the said existing operational railway.
- Noise and Vibration Assessments should take into account any railway depots, freight depots, light maintenance depots in the area. If a Noise and Vibration Assessment does not take into account any depots in the area then the applicant will be requested to reconsider the findings of the report.

25. Where a proposal calls for the following adjacent to the boundary with the operational railway, running parallel to the operational railway or where the existing operational railway is below the height of the proposal site:

- hard standing areas
- turning circles
- roads, public highways to facilitate access and egress from developments

Network Rail would very strongly recommend the installation of suitable high kerbs or crash barriers (e.g. Armco Safety Barriers). This is to prevent vehicle incursion from the proposal area impacting upon the safe operation of the railway.



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26. As the proposal includes works which may impact the existing operational railway and in order to facilitate the above, a **BAPA** (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent. The applicant / developer should liaise directly with Asset Protection to set up the BAPA.

X

*J Curley*

Signed by: Jane Curley

**On behalf of High Peak Borough Council**



## NOTES

1. Approval under the Building Regulations may also be required. Advice in this respect can be obtained by contacting the Councils Building Control Section.
2. Where a vehicle is often driven across a grass verge or kerbed footway to and from premises adjoining a highway, the occupier of the premises may, be required to pay the cost of construction of a crossing, and/or may be required to comply with conditions, imposed by the Authority. You should contact the Highway Authority at Derbyshire County Council.
3. This consent is granted subject to conditions and it is the owner(s) and the person(s) responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond. **A fee is payable to us for the discharge of condition. Please refer to our web site : [www.highpeak.gov.uk](http://www.highpeak.gov.uk) for details.** If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:
  - (a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
  - (b) Where a condition precedent is breached and the development is unauthorised, the only way to rectify the development is the submission of a new application.
4. Other conditions on this permission must also be complied with. Failure to comply with any condition may render the owner(s) and the person(s) responsible for the implementation of the development liable to enforcement action.
5. The permission is granted in strict accordance with the approved plans. It should be noted however that:
  - (a) Any variation from the approved plans following commencement of the development irrespective of the degree of variation will constitute unauthorised development and may be liable to enforcement action.
  - (b) Variation to the approved plans will require the submission of a new planning application.
6. If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
7. If the decision to refuse planning permission is for a householder application, and you want to appeal against your local planning authority's decision then you must



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do so within 12 weeks of the date of this notice. All other types of development have a 6 month deadline for submission of appeals. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN or online at <https://www.gov.uk/appeal-planning-inspectorate#other-ways-to-apply>. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

8. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.