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Dear Sir

Application Reference HPK/2017/0395 – 11a Fauvel Road, Glossop, SK13 9AR,

Proposed change of use of light industrial unit to dwelling.

Dear Mr Williamson

1. Further to your recent e-mails to Mr Alan Dearden (Agent) and Mr Mike Higgins (Architect) I have been instructed to submit this letter in support of the above planning application. Those instructing me, and the Council are very familiar with the facts of the proposed development and I do not propose to repeat them here.

2. From the content of your e-mail dated the 26th June 2018 it would appear that the key points for debate relate to **(a)** Policy E4 of the Local Plan, **(b)** The parking implications of the proposed development and **(c)** The two windows on the ground-floor western elevation. I will address each of these points below.

3. **(a).** Local Plan Policy E4 permits the change of use of existing business premises for non - employment uses where: -

- *"1. The continuation of the land or premises in industrial or business use is constrained to the extent that it is no longer suitable or commercially viable for industrial or business use as demonstrated by marketing evidence commensurate with the size and scale of development; and the proposed use is compatible with neighbouring uses, or*
- *2. An appropriate level of enabling development is required to support improvements to employment premises or supporting infrastructure. In such cases, a viability appraisal should be submitted to demonstrate that a change of use or redevelopment of the site is required to fund the improvements. Mixed-use proposals should not create any environmental, amenity or safety issues. Proposals that would result in an under-supply of suitable employment land in relation to identified needs will not be permitted."*

4. The purpose of the policy is to retain employment land and premises that are required to support the local economy. The supporting text does, however, recognise that there will be circumstances during the plan period that will require the redevelopment of some employment land for other beneficial uses. Such circumstances may include changes to the financial or commercial viability of

the employment use or premises which indicate that the continued employment use of the site by any business is no longer feasible. The Local Plan indicates that there may also be circumstances where the land or building is no longer suitable for continuation in employment use. For example, the business or industrial use may no longer be compatible with neighbouring properties or uses such as housing in terms of its impact on the local environment or amenity.

5. My first comment would be that the site is not protected employment land and that there is sufficient flexibility within LP Policy E4 to permit the change of use of the building without the need for any form of marketing exercise. The light industrial use is now clearly incompatible with the surrounding residential properties, particularly on Fauvell Place, and the proposal gives the opportunity for the Council to achieve a positive improvement to the environment in this location. Consideration must also be given to the fact that whilst the existing picture framing business is carried out on a fairly low-key basis there is always the possibility that any other light industrial use within the building would have the potential to cause noise and disturbance for its neighbours. The Council has no control over the fact that the building can be used 7 days a week at any time of the day or night. There is also no control over when goods can be delivered or despatched from the premises or on the size of vehicles that can carry out these activities. In my view these are all matters which weigh heavily in favour of the proposal and outweigh the need to market the premises.

6. Should the application be refused then my client also has the opportunity to make an application under Class PA of The Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016. As you are aware this is the Class which permits the change of use of buildings from light industrial to dwellinghouses without the need for planning permission. It allows a change of use from B1(c) (light industrial) to C3 (dwellinghouses) subject to limitations and conditions including the prior approval of the local planning authority in respect of certain matters. For ease of reference I have set out the conditions and limitations of Class PA and provided comment (in bold italics) to demonstrate how we would satisfy the requirements of this legislation and secure a positive outcome.

Permitted development

PA. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.

PA.1. Development is not permitted by Class PA if—

(a) an application under paragraph PA.2(1) in respect of the development is received by the local planning authority on or before 30th September 2017; - ***The proposal would comply.***

(b) the building was not used solely for a light industrial use on 19th March 2014 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use; ***The proposal would comply.***

(c) the prior approval date falls on or after 1st October 2020; - ***The proposal would comply.***

(d) the gross floor space of the existing building exceeds 500 square metres; - ***The proposal would comply.***

- (e) the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;
- (f) less than 1 year before the date the development begins—
 - (i) an agricultural tenancy over the site has been terminated, and
 - (ii) the termination was for the purpose of carrying out development under this Class,
 unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural purposes; **The proposal would comply.**
- (g) the site is, or forms part of—
 - (i) a site of special scientific interest;
 - (ii) a safety hazard area;
 - (iii) a military explosives storage area;
- (h) the building is a listed building or is within the curtilage of a listed building; or
- (i) the site is, or contains, a scheduled monument. - **The proposal would comply.**

Conditions

PA.2.— (1) Development is permitted by Class PA subject to the condition that before beginning the development, the developer must—

(a) submit a statement, which must accompany the application referred to in paragraph (b), to the local planning authority setting out the evidence the developer relies upon to demonstrate that the building was used solely for a light industrial use on the date referred to in paragraph PA.1(b); - **The proposal would comply since there is no dispute that the building has a light industrial use that has been in operation prior to the 19th March 2014**

(b) apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—

(i) transport and highways impacts of the development, - **The proposal would comply since the highway authority raise no objections to the current planning application.**

(ii) contamination risks in relation to the building - **The proposal would comply since environmental health raise no objections to the current planning application.**

(iii) flooding risks in relation to the building, - **The proposal would comply since the site does not lie within an area that is subject to flood risk.**

(iv) where the authority considers the building to which the development relates is within an area that is important for providing industrial services or storage or distribution services or a mix of those services (which includes, where the development relates to part of a building, services provided from any other part of the building), whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services. – **The proposal would comply since the building is clearly not located within an area that is important for providing industrial services. The site is not protected employment land and the introduction of a further residential unit in what is a predominantly residential area would not have any adverse impact on the provision and sustainability of industrial services within Glossop.**

7. The information contained in paragraph 6 above is clearly a significant material consideration in the determination of the planning application. The fact that the change of use could take place as permitted development is a genuine fall-back position. As you will be aware case law establishes the principle that the fall-back can be a material planning consideration. The High Court Judgement of Mr Justice Hickinbottom in the case of the Queen on the application of Zurich Assurance Ltd Trading as Threadneedle Property Investments and North Lincolnshire Council and Simons Developments Ltd, addresses the issue in Paragraph 75. The Judge found that: -

“The prospect of the fall-back positions does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical, prospect. Where the possibility of the fall-back position happening is ‘very slight indeed’, or merely an ‘outside chance’, that is sufficient to make the position a material consideration (see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government (2009) EWCA Civ 333 at (20) – (21) per Sullivan LJ. Weight is, then a matter for the Planning Committee.”

8. (b) With reference to the parking implications of the proposed development the existing building has a floor space of 130m², but the site does not benefit from any off-road parking. Fauvell Road is a private way where the interested parties of the application building, The Forge and No's 1, 2 & 3 Fauvell Place all benefit from an unhindered right of passage. For a B1(a) light industrial uses, such as the application building, the Council's adopted parking standards require a maximum parking standard of 4.33 spaces i.e. 1 space per 30m². The Council's parking standards for a three-bed dwelling require a maximum of 2 spaces. This leads to the conclusion that the proposed use would generate a lower parking requirement than that of the lawful light industrial use. The Highway Authority confirm that they have no objection to the proposal. The residential use of the building would also lead to fewer vehicular movements. Whilst there is no requirement to provide any off-street parking for the dwelling the revised plans (02B) now show the provision of one parking space to the east side of the building. Whilst we would prefer to retain this area as amenity space it does offer the opportunity for parking should the Council consider this more beneficial. The sustainable location of the site, close to the Town Centre, bus stops and community facilities, means that movement to and from the site will not have to rely on the use of the private car. The site is located within a short walk of good quality public transport connections and is also within an easy walking and cycling distance of a range of everyday local facilities such as town centre shopping, employment, education and leisure opportunities which would all serve residents at the site.

9. (c) With reference to the two windows on the ground-floor west elevation, the revised elevations shown on drawing 03A now show the two windows as existing with obscure glazing and fixed lights. Escape windows are shown on the south west and south east elevation of the building.

10. Considering all of the above it is my view that there would be no conflict with any of the Policies contained in either the National Planning Policy Framework or the High Peak Local Plan. The Framework indicates that there are three dimensions to sustainable development; environmental, social and economic. The proposal satisfies the relevant core planning principles within the Framework and the Development Plan for the following reasons: -

- The proposed conversion would satisfy the requirements of LP Policy E4 and there are significant material considerations that outweigh the need to carry out any form of marketing exercise.
- In environmental terms the proposed development would achieve a visual improvement to the overall appearance of the site and would see the removal of an industrial use from a predominantly residential area resulting in an improvement to the amenity of nearby residents. The proposal would achieve high quality design and a good standard of amenity for all existing and future occupiers.
- The proposal would make a small contribution to housing supply and there would not be any material harm to the character and appearance of the area. There would also be the small economic benefit that would arise from developing the site and the economic activity of those occupying the dwelling.

Applying the test set out in paragraph 14 of the Framework there are no adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies as a whole. Nor are there specific policies in the Framework which indicate that the development should be restricted. The proposal would, therefore amount to sustainable development and it is requested that planning permission should be granted.

Yours sincerely

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