The Planning Inspectorate

Appeal Decision

Inquiry held on 23 - 25 April 2013
Site visit made on 25 April 2013

by Karen L Baker DipTP MA DipMP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 May 2013

Appeal Ref: APP/H1033/A/13/2189819
Forge Works, Forge Road, Chinley, Derbyshire SK23 6BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Innovation Forge Limited and Woodford Land Limited against the decision of High Peak Borough Council.
- The application Ref. HPK/2012/0323, dated 31 May 2012, was refused by notice dated 30 November 2012.
- The development proposed is the demolition of all remaining structures and redevelopment for up to 182 dwellings, up to 1,672sqm of business floorspace (Use Class B1), up to 279sqm of non-residential institution floorspace (Use Class D1), community facilities and associated infrastructure.

Procedural Matters

1. The planning application was made in outline with all matters reserved for subsequent approval, with the exception of access.

2. It was agreed at the Inquiry that the planning application was determined on the basis of the following plans: Location Plan (Drawing No. 1206CLH/FRC-LP01 Rev. A); Topographic Survey (Drawing No. P(00)004); Illustrative Masterplan (Drawing No. 1206CLH/FRC-IM02 Rev. A); Illustrative Streetscenes (Drawing No. 1206CLH/FRC-SS01 Rev. A); and, Proposed Site Access Arrangement (Drawing No. 11149/SCP4 Rev. C).

3. The appellants have submitted 2 amended plans as part of this appeal: Location Plan (Drawing No. 1206CLH/FRC-LP01 Rev. B); and, Illustrative Masterplan (Drawing No. 1206CLH/FRC-IM02 Rev. B). These amended plans, which include a revised site boundary to reflect more accurately the site's ownership, along with changes to the Design and Access Statement, which include scale parameters for the proposed development, were subject to a 4 week consultation period prior to the Inquiry. The changes were advertised in the Buxton Advertiser on 28 February 2013 and were subject to a letter sent to interested parties. One objection was received to these changes. At the Inquiry, the Council confirmed that it had no objections to my consideration of these amended plans and changes to the Design and Access Statement as part of this appeal. Indeed, given the minor nature of the changes proposed to the plans and the Design and Access Statement, I am satisfied that my consideration of these matters would not prejudice the Council's case or be detrimental to the interests of third parties. I have therefore considered the appeal on this basis.

4. At the Inquiry, the appellants submitted a Section 106 Agreement, which includes the provision of affordable housing as part of the development, financial contributions in respect of open space, play space, primary school places, off site highways works, off site footpath works and a Full Travel Plan, and other matters relating to the consideration of a Financial Viability Assessment, if there are material changes in financial circumstances, the timing of the completion of the non-residential development and affordable housing, the relinquishing of permitted development rights in respect of the affordable housing units and the establishment of a Site Management Company to maintain the on site roads and areas of open space. I have had regard to this Section 106 Agreement during my consideration of this appeal.

5. At the Inquiry, the Council confirmed that it would withdraw its second reason for refusal, following the submission of the Section 106 Agreement, which deals acceptably with its concerns in this regard.

Decision

6. The appeal is allowed and outline planning permission is granted for the demolition of all remaining structures and redevelopment for up to 182 dwellings, up to 1,672sqm of business floorspace (Use Class B1), up to 279sqm of non-residential institution floorspace (Use Class D1), community facilities and associated infrastructure at Forge Works, Forge Road, Chinley, Derbyshire SK23 6BW in accordance with the terms of the application, Ref. HPK/2012/0323, dated 31 May 2012, and subject to the conditions listed in Appendix 1.

Main Issues

7. The main issues in this appeal are:

   a) the effect of the proposed development on highway and pedestrian safety; and,

   b) whether or not the proposal would represent a sustainable form of development.

Reasons

Highway and Pedestrian Safety

8. The appeal site is located to the south of the settlement of Chinley, to the east of Whitehough Head Lane/Green Lane. The Peak Forest Tramway Trail abuts the southern boundary of the appeal site, with open countryside beyond. Residential development within Chinley is located to the north of the western part of the appeal site, beyond Forge Road and Black Brook. The land to the north of the eastern part of the appeal site is open countryside, used mostly for the grazing of cattle. A waste water treatment works lies to the east of the appeal site. To the west of the appeal site and to the south of Forge Road, beyond a field, is Victory Hall, used by the 1st Chinley Scout Group and residential properties along Whitehough Head Lane. To the south west of the appeal site, along Whitehough Head Lane is the hamlet of Whitehough.

9. The appeal site is around 7.48ha and was previously used as a factory, with an ancillary shop, by Dorma. The appeal site was historically occupied by a bleaching and dyeing company and more latterly by a fabric company, until the closure of the factory in 2005. The only vehicular access to the former factory

was via the junction of Whitehough Head Lane/Green Lane and Forge Road. It was agreed at the Inquiry, between the main parties, that 105 car parking spaces, associated with this former use, had been identified on the appeal site.

Highway Safety

10. The Council considers that, given the previous use of the appeal site, it would be reasonable to redevelop it provided that there would be an equitable exchange in respect of the level of traffic generated, whereby the level of the previous use is the benchmark against which traffic generation of the appeal proposal should be judged. The Council's basis for this assessment being that the traffic related to the previous industrial use of the land prior to 2005 came and went without causing any highway safety issues. As such, the Council would not want proposed traffic levels to exceed the benchmark levels. However, there is dispute between the Council and the appellants relating to the levels of traffic generated by the previous use of the appeal site.

11. It is apparent, from the evidence given by local residents at the Inquiry, that HGVs visited the appeal site, along with buses transporting staff to and from the factory. Given the number of car parking spaces, it is clear that some workers would have travelled by car, and, from the evidence given by local residents at the Inquiry, it appears that up to 4 shifts operated at the factory. Further, there is some suggestion of the use of the on site factory shop by members of the public and the sub-letting of units of accommodation within the appeal site to other businesses. I acknowledge that some staff would have travelled on foot or by bicycle from the neighbouring settlements to the factory, as would some visitors to the shop. Nevertheless, there is no definitive evidence relating to the number of people employed at the factory, including their working patterns, and the number of visitors to the factory shop, along with its opening hours, or their means and extent of travel to and from the appeal site.

12. The main parties have, therefore, each examined the likely levels of traffic generated by the previous use of the appeal site through the use of the TRICS database. I acknowledge the shortcomings of using the TRICS database in this case due to the difficulties in finding a comparable match for the former factory use. This has led to 2 approaches to the analysis of this data, with the appellants' Highways Consultant considering a broader sample of sites (17) and the Council's Highways Consultant considering a smaller sample of sites (7). I note, however, that the approach adopted by the Appellants' Highways Consultant was agreed with Derbyshire County Council, the Highway Authority, at the outset.

13. While the TRICS database is the industry standard tool for determining trip rates for most land uses, I acknowledge that no 2 sites are the same, either in scale, location or business operations. Indeed, the TRICS Good Practice Guide 2012 recommends caution in the interpretation of results from the database and accepts that unless parameters are agreed at the outset then different results are likely to be obtained by different users.

14. The appellants' Highways Consultant based his assessment on a single user industrial unit, with selection parameters including a minimum floor area of 1,000sqm, no weekend surveys and no regional exclusions. His analysis of a group of 17 sites showed that trips associated with the previous factory use of

the appeal site would have meant a total of 163 in the AM peak and 141 in the PM peak, with a daily rate of 1,198.

15. The Council's Highways Consultant used 7 of the 17 sites assessed in the appellants' Highways Consultant's analysis. This was based on an analysis of a single user industrial unit with a minimum of 10,000sqm, rather than 1,000sqm. Further, sites from the Republic of Ireland and Greater London were excluded as being subject to materially different economic and cultural factors, in respect of the former, and demonstrating materially different characteristics, with particular reference to local economic factors and general accessibility to a much wider range of public transport options, in respect of the latter. This approach was not, however, agreed by the Highway Authority. The Council's Highways Consultant's analysis showed that trips associated with the previous factory use of the appeal site would have meant a total of 91 in the AM peak and 56 in the PM peak, with a daily rate of 844. I acknowledge the reasons for this approach, including the removal of those sites considered to be small in the context of the appeal site area and their scale being unrepresentative of that of the previous use.

16. The Gross Floor Area (GFA) of the previous use on the appeal site was around 37,912sqm. The average GFA in the appellants' Highways Consultant's analysis was around 12,315sqm, compared to an average GFA in the Council's Highways Consultant's analysis of around 25,393sqm. I also acknowledge the results of the Cross Test which the Council's Highways Consultant has carried out in respect of both his and the appellants' Highways Consultant's analysis of the TRICS data. I am concerned, however, that given the lack of any substantial evidence relating to the actual levels of traffic generated by the previous use of the appeal site, along with the lack of any comparable sites within the TRICS database in terms of use, location and GFA, reliance on either analysis, as a basis for determining the benchmark against which traffic generation for the appeal proposal should be judged, would be fundamentally flawed. In reality, previous levels of traffic generated at the appeal site may lie somewhere between the 2 assessments, but in the absence of any substantial evidence in this regard I consider that the use of a benchmark as part of an equitable exchange approach would, in this case, be inappropriate. Further, there is no evidence before me to suggest that an increase in traffic above any such benchmark would cause harm to highway safety in any event. As such, I consider that the appeal proposal should be assessed on its own merits, being mindful of there having been some degree of historic vehicular movement in and out of the site, albeit that the exact extent remains unknown.

17. Government guidance in paragraph 32 of The National Planning Policy Framework (The Framework) requires that all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. It goes on to say that decisions should take account of whether the opportunities for sustainable transport modes have been taken up, depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people; and, improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This guidance is generally reflected in Policies TR4 and TR5 of the High Peak

Local Plan[1], adopted in March 2005, which seek to ensure that proposed developments would not harm highway safety.

18. The appeal proposal would include the development of up to 182 dwellings, up to 1,672sqm of business floorspace (Use Class B1), up to 279sqm of non-residential institution floorspace (Use Class D1), community facilities and associated infrastructure. I note that the appellants' Highways Consultant and the Council's Highways Consultant agree about the trip rates and vehicle movements that would be associated with the development of 182 dwellings and a 279sqm crèche at the appeal site. The former would result in 109 trips and 120 trips, in the AM and PM peaks respectively, with a total of 1,021 daily trips, and the latter would result in 17 trips and 11 trips, in the AM and PM peaks respectively, with a total of 63 daily trips.

19. There is dispute between the main parties, however, relating to the trip rates and vehicle movements that would be associated with the proposed business floorspace. The appellants' Highways Consultant considers that the light industrial element of the proposed development would generate 11 trips and 8 trips, in the AM and PM peaks respectively, with a total of 112 daily trips. The Council's Highways Consultant has assessed both the development of the business floorspace as an industrial estate and for office development as the Council would not wish to limit the use of this part of the appeal site to any specific B1 sub-classes. He considers, therefore, that an industrial estate would generate 26 trips and 16 trips, in the AM and PM peaks respectively, with a total of 361 daily trips, and an office development would generate 51 trips and 42 trips, in the AM and PM peaks respectively, with a total of 327 daily trips.

20. The appellants' Highways Consultant considers that the combined traffic flows for the proposed development would therefore be 137 trips and 139 trips, in the AM and PM peaks respectively, with a total of 1,196 daily trips. The Council's Highways Consultant, on the other hand, considers that the combined development traffic flows would be 151 trips and 147 trips, in the AM and PM peaks respectively, with a total of 1,444 daily trips, based on the B1 use being an industrial estate, and 176 trips and 173 trips, in the AM and PM peaks respectively, with a total of 1,411 daily trips, based on the B1 use being offices. Neither assessment takes into account the opportunities to undertake linked trips or the possibility that people may live and work within the site.

21. The appellants undertook a traffic survey over a 7 day period to record flows along Whitehough Head Lane/Green Lane in the vicinity of the junction with Forge Road. This showed that in the busiest hour of the week 144 vehicle movements were recorded with northbound and southbound movements combined. It also showed that the average daytime flow was far less than 100 vehicles in any hour. Using the higher vehicle movements for the proposed development put forward by the Council's Highways Consultant, the proposal would lead to between 2 and 3 additional vehicles per minute entering/leaving the appeal site at the junction of Forge Road with Whitehough Head Lane/Green Lane during the peak hours, with around an additional 120 vehicles

[1] The Local Plan policies to which I refer in this decision have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 26 March 2008. Having regard to paragraph 215 of Annex 1 to the National Planning Policy Framework (The Framework), I consider that these Local Plan policies, in so far as they relate to the development before me, are broadly consistent with The Framework. As such, full development plan weight has been afforded to them.

per hour entering/leaving the appeal site during the day. In my opinion, this would represent only a modest increase in vehicle movements along Whitehough Head Lane/Green Lane on a part of the local highway network where vehicle movements are relatively low.

22. The appellants also undertook a survey of vehicle speeds over a 7 day period in September 2011. The results of this survey indicated that the average speed of traffic over the whole week was 25mph in each direction, with the 85th percentile speed of both northbound and southbound traffic being 29.2mph. I note that with an adjustment for wet weather, the 85th percentile design speed for junction visibility is 27.8mph and the appellants' Highways Consultant's statement that, based on this design speed, visibility splays of 2.4m x 36m[2] would be required by Manual for Streets at the site access onto Whitehough Head Lane/Green Lane. While it is agreed by the main parties that this visibility could be achieved to the north of the proposed access, visibility to the south would only be around 13m to the back of the kerb. Paragraph 10.5.9 of Manual for Streets 2 says that, unless there is local evidence to the contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem. I acknowledge that the accident records dating back to 2001, when the previous factory use was still operational, for the junction of Forge Road with Whitehough Head Lane/Green Lane confirm that there have been no accidents in this location during that time. As such, despite its substandard visibility to the south, the junction has operated safely in the past.

23. The appellants' Highways Consultant suggests that drivers of vehicles exiting Forge Road could edge out slightly into the carriageway in order to achieve visibility in excess of 36m in both directions and that the principle of edging out is considered in Section 10.7 of Manual for Streets 2. Indeed, it states that at urban junctions where visibility is limited by buildings and parked cars, drivers of vehicles on the minor arm tend to nose out carefully until they can see oncoming traffic, and vice versa. I also note the safe operation of other junctions with poor visibility within Chinley, in particular Hunters Green Close and Ash Grove at their junctions with Green Lane, which are close to the appeal site.

24. The proposed development would include a number of improvements to the highway network in the vicinity of the junction of Forge Road with Whitehough Head Lane/Green Lane. Firstly, the appellants propose a slight realignment of the junction such that to the north, along Green Lane, there would be visibility in excess of 36m. Further, a scheme of traffic calming is proposed including raised junction platforms, raised tables at pedestrian crossing points and a pedestrian priority area with a 40mm kerb upstand in the carriageway, along with improved street lighting and improved road signs and road markings. These works are supported by the Highway Authority. In my opinion, the improvements proposed to this junction would sufficiently increase visibility for drivers exiting Forge Road to see and be seen clearly by drivers of vehicles travelling along Whitehough Head Lane/Green Lane. Further, the proposed traffic calming scheme along this part of the highway would substantially reduce the speed of vehicles approaching this junction.

25. Although the existing junction of Forge Road with Whitehough Head Lane/Green Lane is substandard, given the evidence that it has operated safely since 2001, including a time when the previous factory was in operation on the

[2] Table 7.1 of Manual for Streets

appeal site, and the relatively low speeds and numbers of vehicles travelling along Whitehough Head Lane/Green Lane, along with the scheme of improvements and traffic calming proposed by the appellants, I am satisfied that the modest increase in traffic movements associated with the proposed development would be safely accommodated within the highway network. As such, it would not be detrimental to highway safety.

Pedestrian Safety

26. The Council and local residents are concerned about pedestrian safety along Whitehough Head Lane/Green Lane. At present pedestrians walking along this highway between Whitehough and Chinley are required to walk within the carriageway for part of this journey as there is no footway along the full length of this route. Although a footway exists to the south of Forge Road along Whitehough Head Lane, no such footway is present along Whitehough Head Lane and Green Lane for around 100m to the north of Forge Road, with the exception of a small footway around the entrance to Hunters Green Close.

27. The appellants would provide 2 pedestrian priority areas, with a 40mm kerb upstand, along the eastern side of Green Lane for part of this 100m section of highway. The pedestrian priority area would be denoted by buff surfacing and would be up to 1m in width. I acknowledge that this proposal is supported by the Highway Authority.

28. It was apparent from my site visit and from the evidence presented to the Inquiry by the Council and third parties that this route is popular with pedestrians walking to and from the services and facilities in Chinley, as well as the public houses in Whitehough. Indeed, it would also be the pedestrian route used by residents, staff and visitors of the proposed development. Although there is currently no formal footway for part of this route between Forge Road and Chinley, it is well used by pedestrians, with them mostly walking along the eastern side of Whitehough Head Lane/Green Lane. Although the proposed development would lead to an increase in the number of vehicles travelling along this part of Whitehough Head Lane/Green Lane, given the proposed traffic calming scheme, which would include a raised table at a pedestrian crossing point to the north of the pedestrian priority areas and raised junction platforms to the south, I consider that vehicle speeds in the vicinity of this part of Green Lane would be substantially reduced. This, added to the pedestrian priority areas denoted along this part of Green Lane, would, in my view, represent a significant improvement upon the existing conditions for pedestrians. I am satisfied, therefore, that the proposed development would not be detrimental to pedestrian safety.

29. I conclude, therefore, that the proposed development would not harm highway and pedestrian safety. As such, it would not be contrary to Local Plan Policies TR4 and TR5 or the guidance in The Framework.

Sustainability

30. Paragraph 6 of The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development and that 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. Indeed, paragraph 14 states that at the heart of The Framework is a presumption in favour of sustainable development,

which should be seen as a golden thread running through both plan-making and decision-taking.

31. The centre of the appeal site is located around 0.7km from shops within the centre of Chinley, around 1km from Chinley Railway Station and around 1.7km from Chinley Primary School, or around 0.9km via a proposed new footpath. I note the concerns of local residents and the Council relating to the quality of the pedestrian links from the appeal site to these services and facilities and the topography of the area. I also acknowledge that there are existing parking problems at the railway station and within Chinley and that there have been reductions recently in the frequency of both bus and rail services in the area.

32. The appeal site is previously developed land on the edge of the settlement of Chinley, which benefits from a range of local services and facilities. The appellants submitted a Travel Plan with the planning application and propose a financial contribution towards the provision and maintenance of cycle stands at Chinley Railway Station and/or shelters at the bus stop outside the railway station in the Section 106 Agreement. Given this, along with the improvements proposed by the appellants to Green Lane, including a raised table at a pedestrian crossing point to the north of the pedestrian priority areas, I am satisfied that opportunities for sustainable transport modes have been taken up and that safe and suitable access to the appeal site can be achieved for all people.

33. I conclude, therefore, that the proposal would represent a sustainable form of development. As such, it would accord with the guidance in The Framework.

Other Matters

34. The Council and the appellants agree in the Statement of Common Ground that there is not currently a continuous 5 year supply of deliverable housing land in the Borough. Indeed, the Council accepted at the Inquiry that the housing land supply is currently around 2.8 years. Further, the main parties agree that there is a need for affordable homes across the Borough. At the Inquiry, the appellants confirmed that the proposed development could be completed within 5 years. The proposed development would, therefore, contribute significantly towards reducing the current shortfall in housing land supply and meeting some of the need for affordable housing. As such, these matters carry significant weight in my consideration of this proposal.

35. A small part of Forge Road within the appeal site lies within the Chinley and Whitehough Conservation Area, which was designated in 1990. I note that English Heritage have no objections to the proposed development. Given the existing run down nature of the appeal site, I am satisfied that the proposed development would preserve or enhance the character or appearance of the conservation area and would not adversely affect its setting.

36. A small part of the appeal site to the north of Black Brook is within the Green Belt, as shown on the Local Plan Proposals Map. This area of the appeal site previously contained tanks associated with the historic use of the land. The Illustrative Masterplan, submitted with the planning application, indicates that this area would be predominantly used as rear gardens to some of the proposed dwellings. Given this, along with the previous use of this part of the site, I am satisfied that the proposed development would not materially harm the openness or visual amenities of the Green Belt in this location.

37. I have considered all the other matters raised by the Council and third parties, including, the scale of the development proposed; the increase in population and its impact on the settlement of Chinley and the hamlet of Whitehough; flooding concerns; the impact of the proposed development on the Peak Forest Tramway Trail; contamination on the appeal site; the impact of the proposed development on the living conditions of the occupiers of Forge Terrace; and the impact of the proposal on ecology; but none changes my overall conclusion that the appeal should be allowed.

Section 106 Agreement

38. The appeal proposal is accompanied by a signed and dated Section 106 Agreement between the appellants, along with other parties with an interest in the land, and High Peak Borough Council and Derbyshire County Council. It includes a number of obligations to come into effect if outline planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. I have also had regard to the Council's Planning Obligations Supplementary Planning Document (SPD 1), adopted in December 2005. The Agreement relates to the following matters.

39. *Affordable Housing:* Local Plan Policy H9 seeks to ensure the provision of a proportion of affordable housing for local needs in new residential development schemes. Paragraph 6.60 of the reasoned justification to this policy recommends that at least 30% of units on sites of 0.5ha and over or 15 units or more should be provided as affordable homes. The Agreement provides for 30% of the total number of dwellings to be erected on the site to be affordable, which would comprise 60% social rented housing and 40% shared ownership housing. Further, the Agreement allows for the consideration of a Financial Viability Assessment if it is considered, and can be demonstrated, that there have been material changes in financial circumstances which could be used to determine whether the percentage of affordable housing may be reduced. In addition, the Agreement sets out the requirement that no more than 40% of the commercial dwellings shall be completed until the affordable units have been completed and transferred to a registered provider and removes permitted development rights in respect of the affordable housing units. I consider that these obligations would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As such, they would pass the statutory tests.

40. Non Residential Development: The Agreement requires that no more than 65% of the commercial dwellings shall be occupied until the non-residential development has been completed, is being marketed and is available for occupation. Paragraph 38 of The Framework seeks to promote a mix of uses for larger scale residential developments in order to provide opportunities to undertake day-to-day activities including work on site. This obligation would ensure that the crèche and industrial elements of the proposal were completed and available prior to the completion of the residential development which would ensure a mix of uses on the site. As such, I consider that this obligation would pass the statutory tests.

41. *Off Site Highways Contribution:* Local Plan Policy TR1 requires new development to seek to widen transport choice for people and goods. Local Plan Policy TR4 seeks to ensure that adequate public transport infrastructure is

provided and Policy TR5 requires safe and appropriate provision for access and egress by pedestrians, cyclists and public transport users. The Agreement provides for the contribution of £25,000 for the provision and maintenance of cycle stands at Chinley Railway Station and/or shelters at the bus stop outside the railway station. I am satisfied that this obligation would provide adequate public transport infrastructure and widen transport choices for residents of, and visitors to, the proposed development. As such, I consider that it would pass the statutory tests.

42. *Primary School Contribution:* Where new residential development necessitates a significant upgrading of existing educational facilities, Local Plan Policy CF3 requires contributions for their improvement. Derbyshire County Council, as local education authority, stated in its letter, dated 28 June 2012, in response to the planning application, that there would be a requirement for a financial contribution towards the provision of 30 primary school places. The Agreement provides for a financial contribution calculated in accordance with the provisions set out in Schedule 2 Part III of the Agreement towards the improvement and/or works to increase capacity at Chinley Primary School. Given the size of the proposed development and the number and type of units proposed, along with the number of pupils currently on roll at Chinley Primary School and the projected future numbers, I consider that this obligation would pass the statutory tests.

43. *Off Site Footpath Contribution:* A sum of £26,250 has been included in the Agreement for the provision of a footpath between the northern boundary of the appeal site and Buxton Road, with the primary purpose being to shorten the walking distance between the proposed dwellings and Chinley Primary School. The distance from the centre of the appeal site to the school is 1.7km via the existing highway network, but this would be reduced to 0.9km via the proposed footpath. Paragraph 38 of The Framework says that where practical, particularly within large scale developments, key facilities such as primary schools and local shops should be located within walking distance of most properties. Although Local Plan Policy TR1 requires new development to seek to widen transport choice for people and goods and Policy TR14 seeks the construction of cycle and pedestrian facilities where the development creates a need for them, I am not satisfied that in this case such a need has been demonstrated. Indeed, I am satisfied that the Primary School is within walking distance of most properties on the appeal site. As such, I am unable to conclude that this obligation would pass tests (a) and (b) in CIL Regulation 122.

44. *Open Space and Play Space Contributions:* The Agreement provides for a financial contribution calculated in accordance with the provisions set out in Schedule 2 Part I of the Agreement, in respect of open space, towards the purchase, development and maintenance including the purchase of associated facilities of open spaces, including allotments and other open areas in Chinley and the surrounding area being within 1 mile from any point on the boundary of the site. It also provides for a financial contribution calculated in accordance with the provisions set out in Schedule 2 Part II of the Agreement, in respect of play space, towards the development, maintenance and/or refurbishment, including the purchase of new equipment and/or facilities within Chinley or the surrounding area being within a 2 mile radius of any point on the boundary of the site. Local Plan Policy H12 requires that, where appropriate, in place of direct provision of open space, a contribution may be made towards the

improvement of a nearby existing public recreational facility which would meet the needs of the occupiers of the new housing. SPD 1 sets out the requirements for such provision. I note that the Council's preference, expressed in the Statement of Common Ground, is for the majority of open space provision to be dealt with by way of contributions to existing facilities in the area and that the appellants have no objection to this approach. Given the size of the proposed development, along with its siting immediately to the south of the settlement of Chinley, I am satisfied that this approach would be appropriate in this case. As such, I consider that this obligation would pass the statutory tests.

45. *Travel Plan Contribution:* Local Plan Policies TR4 and TR5 require the submission of a Transport Assessment, to assess the likely effects of the development on the local transport network, and a Travel Plan, to reduce car dependency, respectively. Condition No. 11, in Appendix 1 of this Decision, requires the submission and approval of a Full Travel Plan, along with its monitoring for a period of 5 years. A sum of £6,000 has been included in the Agreement as a contribution towards the cost of monitoring the Travel Plan. Given the scale of the development proposed, along with the requirement for monitoring the Travel Plan contained within the condition, I consider that this obligation would pass the statutory tests.

46. *Site Management Company:* The Agreement includes a requirement for the establishment of a Site Management Company in order to manage the on site roads and public open space. In my opinion, such a provision would be necessary to ensure that the on site roads and open space are maintained to an appropriate standard in the event that they are not adopted by the County and Borough Councils respectively. As such, I consider that this obligation would pass the statutory tests.

Conditions

47. The Council and the appellants submitted a list of agreed suggested conditions at the Inquiry. I have had regard to Circular 11/95 during my consideration of these conditions. In addition to the standard time limit and approval of reserved matters conditions, 27 conditions have been suggested. Conditions requiring that space be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, and the provision of wheel cleaning facilities, would be necessary in the interests of highway safety. Conditions requiring the submission and approval of a detailed scheme of the junction layout for Forge Road with Whitehough Head Lane/Green Lane, along with its modification in accordance with the approved scheme, which could be combined into a single condition, and that the visibility splays be kept free of obstruction, would be necessary in the interests of highway safety.

48. Conditions requiring the submission and approval of a detailed scheme of highway improvement works for Whitehough Head Lane/Green Lane, details of phasing of the development/construction operations and the requirement that the premises shall not be occupied or come into use until the new estate roads between each respective plot and the existing public highway have been laid out in accordance with the details submitted as part of the reserved matters application, would be reasonable in the interests of highway safety. A condition requiring the submission and approval of a Full Travel Plan would be

reasonable in the interests of promoting sustainable transport measures. A condition requiring that there be no gates or other barriers on Forge Road within 15m of the nearside highway boundary and that any gates shall open inwards only would be necessary in the interests of highway safety.

49. A condition requiring that space be provided within the site curtilage for the parking, loading and unloading, picking up and setting down of passengers and manoeuvring of residents, visitors, staff, customers, service and delivery vehicles, and cycle parking, would be reasonable in the interests of highway safety. Conditions requiring the implementation of surface water drainage works, the mitigation measures detailed within the Flood Risk Assessment and the diversion of minor watercourses which pass through the site, would be necessary to safeguard the development from flooding. Conditions requiring the submission and approval of a scheme to deal with the risks associated with contamination of the site, the implementation of the approved remediation strategy and the strategy for dealing with unexpected contamination, would be reasonable to safeguard the living and working conditions of future occupiers of the proposed development.

50. A condition requiring the submission and approval of a scheme for the provision and management of an undeveloped buffer zone, at least 8m wide, from the bank top of Black Brook would be reasonable to safeguard the environment. Conditions restricting the hours of construction work, including demolition and site clearance, and piling would be necessary to safeguard the living conditions of neighbouring residents. A condition requiring that the noise generated from the individually occupied non-residential properties at the site shall not exceed the approved noise rating levels representative of background noise (night-time and daytime) would be reasonable to safeguard the living conditions of neighbouring residents and to ensure that the living conditions of the future occupiers of the proposed dwellings on the appeal site would be satisfactory with regards to noise.

51. A condition requiring the submission and approval of a scheme of dust suppression measures would be reasonable to safeguard the living conditions of neighbouring residents. A condition requiring the monitoring of the site for ground/landfill gas would be reasonable in the interests of safeguarding the environment. A condition requiring the submission and approval of a Conservation Statement would be reasonable to safeguard the character and appearance of the Peak Forest Tramway Trail. Conditions requiring the submission and approval of a Written Scheme of Investigation for historic building recording and archaeological work, the carrying out of the development in accordance with this Scheme and the approved Conservation Statement, and the carrying out of the site investigation and post investigation assessment prior to the occupation of the development, would be reasonable in the interests of recording and analysing the site's heritage.

Karen Baker

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Thea Osmund-Smith of Counsel	Instructed by Nicola de Bruin, Borough Solicitor
She called	
Mr Robin Forrester BSc MRTPI	Town Planning Consultant
Mr Andrew Bell BA MSc MCILT MCIHT	Technical Director of AXIS, Planning, Environment and Design Consultancy

FOR THE APPELLANTS:

Mr David Manley QC	Instructed by Mr Marc Hourigan, Director of Hourigan Connolly, Chartered Town Planners
He called	
Mr Michael Lambert BSc CEng MICE	Principal of Michael Lambert Associates
Mr Bill Swan BSc MRICS	Director of Gleeds Cost Management
Mr David Roberts IEng FIHE FCIHT	Director of SCP, Transportation Planners and Infrastructure Designers
Mr Marc Hourigan BA(Hons) BPL MRTPI	Director of Hourigan Connolly, Chartered Town Planners

INTERESTED PERSONS:

Mrs Margaret Dyson	Local Resident
Mrs Suzan Stockdale	Clerk to Chapel-en-le-Frith Parish Council
Mr Patrick Wilson	Representing Chinley, Buxworth and Brownside Parish Council and Councillor Audrey Bramah, Borough Ward Councillor
Mr David Benning BSc CEng MICE MCIHT MIRSO	Local Resident
Councillor Barrie Taylor	County Councillor, Derbyshire County Council
Mr John Benson	Local Resident
Mr Rob Thompson	Local Resident

DOCUMENTS SUBMITTED DURING THE INQUIRY

1 Explanation of the TRICS Cross Test, submitted by the appellants
2 Errata Sheet relating to the Proof of Evidence of Mr M Hourigan, submitted by the appellants
3 Unsigned Section 106 Agreement, submitted by the appellants
4 Letter from Derbyshire County Council, dated 15 May 2000, relating to planning application Ref. 039016, submitted by the Council
5 Errata Sheet relating to the Proof of Evidence of Mr A Bell, submitted by the Council
6 Extract from Planning for Public Transport in Developments, submitted by the Council
7 Extract from Providing for Journeys on Foot, submitted by the Council
8 Response to Additional Evidence Submitted by the Appellants re: Mixed Use

Site in Bollington, Cheshire East, submitted by the Council
9 High Peak Saved Local Plan Policies, submitted by the Council
10 Opening Statement on behalf of High Peak Borough Council, submitted by the Council
11 Statement by Chinley, Buxworth and Brownside Parish Council, submitted by Mr P Wilson
12 Statement by Chapel-en-le-Frith Parish Council, submitted by Mrs S Stockdale, Clerk to the Parish Council
13 Statement by Mr D Benning, submitted by Mr Benning
14 Statement by Mr J Benson, submitted by Mr J Benson
15 Statement by Mr R Thompson, submitted by Mr R Thompson
16 Extract from Guidance on Transport Assessment, submitted by the Council
17 List of conditions agreed between the appellants and the Council, submitted by the appellants
18 Signed Section 106 Agreement, submitted by the appellants
19 Agreed on site parking numbers, submitted by the Council
20 Closing statement on behalf of the Council, submitted by the Council
21 Appellants' closing notes, submitted by the appellants

PLANS SUBMITTED DURING THE INQUIRY

A1/1 Location Plan (Drawing No. 1206CLH/FRC-LP01 Rev. B), submitted by the appellants
A1/2 Illustrative Masterplan (Drawing No. 1206CLH/FRC-IM02 Rev. B), submitted by the appellants
A1/3 Plan Showing Walking Distances to Key Local Facilities (Plan APB1), submitted by the Council
A1/4 High Peak Local Plan Proposals Map – Buxton Area Central Area (South), submitted by the Council
A1/5 Plan showing the Green Belt in and around the appeal site, submitted by the Council

Appendix 1 – Conditions

1) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

2) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

3) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

4) Before any other operations are commenced (excluding demolition/ site clearance), space shall be provided within the site curtilage for storage of plant and materials, site accommodation, loading and unloading of goods vehicles, parking and manoeuvring of site operatives' and visitors' vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the local planning authority for written approval and maintained throughout the contract period in accordance with the approved designs free from any impediment to its designated use.

5) Throughout the period of construction within any phase vehicle wheel cleaning facilities shall be provided and retained within the site. All construction vehicles shall have their wheels cleaned before leaving the site in order to prevent the deposition of mud or other extraneous material on the public highway.

6) Before any operations are commenced (excluding demolition/site clearance) a detailed scheme, incorporating layout and construction materials/details, of the junction of Forge Road with Whitehough Head Lane/Green Lane shall be submitted to and approved in writing by the local planning authority. The junction shall be modified in accordance with the approved detailed scheme prior to the commencement of the development hereby approved (excluding demolition/site clearance).

7) The visibility splays to be provided as part of the detailed scheme approved in accordance with Condition No. 6 shall be kept free throughout the life of the development of plants, walls, hedges and other obstructions exceeding 600mm in height above the Whitehough Head Lane/Green Lane carriageway, in order to maximise visibility from the site access. No part of the site within 2.4m of the Whitehough Head Lane/Green Lane carriageway edge shall form part of any plot or other sub-division of the site to ensure it can be maintained clear of any object greater than 600mm relative to the adjoining carriageway level.

8) Before any operations are commenced (excluding demolition/site clearance) a detailed scheme of highway improvement works for Whitehough Head Lane/Green Lane shall be submitted to and approved in writing by the local planning authority, incorporating layout and construction materials/details. The works shall be carried out strictly in accordance with the approved detailed scheme in a timescale to be agreed in writing with the local planning authority in advance of any works commencing on site (excluding demolition/site clearance).

9) Details of phasing of the development/construction operations shall be submitted to and approved in writing by the local planning authority in advance of works commencing on site. Thereafter development shall proceed strictly in accordance with the agreed phasing programme. Access for the residents of Forge Terrace along Forge Road shall be maintained at all times.

10) The premises hereby approved, shall not be occupied/taken into use until the new estate streets between each respective plot and the existing public highway have been laid out in accordance with details submitted as part of any reserved matters application to accord generally with the advice given in Derbyshire County Council's current residential design guide, constructed to base level, drained and lit in accordance with Derbyshire County Council's specification for new housing/industrial development roads.

11) The premises hereby approved, shall not be occupied until a Full Travel Plan has been submitted to and approved in writing by the local planning authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the planning consent, to the local planning authority for approval for a period of five years from first occupation of the development.

12) There shall be no gates or other barriers on Forge Road within 15m of the nearside highway boundary and any gates shall open inwards only.

13) The premises hereby approved, shall not be occupied/taken into use until space has been provided within the site curtilage for the parking, loading and unloading, picking up and setting down of passengers and manoeuvring of residents, visitors, staff, customers, service and delivery vehicles (including secure/covered cycle parking), located, designed, laid out and constructed all as agreed in writing with the local planning authority and maintained throughout the life of the development free from any impediment to its designated use.

14) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in The Technical Guidance to the National Planning Policy Framework (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

ii) include a timetable for its implementation; and

iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other

arrangements to secure the operation of the scheme throughout its lifetime.

15) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (Version 10, dated 17 May 2012) (or any submitted Flood Risk Assessment subsequently approved by the local planning authority) and the following mitigation measures detailed within the Flood Risk Assessment:

a. Limiting the surface water run-off generated by the proposed development, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

b. Managing the risk of flooding from overland flow of surface water during severe rainfall events, such that new and existing buildings are not affected.

c. Provision of compensatory flood storage on/or in the vicinity of the site to a 1 in 100 years standard (1% annual exceedence probability).

d. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven.

e. Finished floor levels of proposed buildings are set no lower than the relevant 1 in 100 years design river flood level plus allowance for climate change plus 600mm freeboard.

16) Submission of reserved matters shall include a scheme to divert the minor watercourses that pass through the site to be approved in writing by the local planning authority. The scheme shall show that new buildings are not sited above the route of any culverted sections and be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

17) Prior to the commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to, and approved in writing by, the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors; and,
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

c) The results of the site investigation and detailed risk assessment

referred to in b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

18) Prior to commencement of development, (excluding demolition/site clearance) a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority. The long-term monitoring and maintenance plan shall be implemented as approved.

19) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted, and obtained written approval from the local planning authority for, a remediation strategy detailing how this unexpected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

20) Submission of reserved matters shall include a scheme for the provision and management of an undeveloped buffer zone (at least 8m wide) from the bank top of Black Brook to be agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include:

- plans showing the extent and layout of the buffer zone;
- details of any planting scheme (for example, native species);
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term; and,
- details of any footpaths, fencing and any other structures to be sited within the buffer zone.

21) No construction work, including demolition and site clearance, or related deliveries shall take place outside the following hours:

0700hrs and 1900hrs Monday to Friday; and,

0800hrs and 1600hrs on Saturdays.

Nor at any time on Sundays or Public Holidays.

22) No piling shall take place outside 0900hrs and 1600hrs Monday to Friday.

23) Noise generated from individually occupied non-residential properties at the site shall not exceed the approved noise rating levels representative of background noise (night-time and daytime), measured as a 1 hour LAeq for daytime measurements, and a 5 minute LAeq for night-time measurements, at any noise sensitive property. Measurements shall be undertaken in accordance with the procedures outlined in BS4142:1997.

24) A scheme of dust suppression measures shall be submitted to and approved in writing by the local planning authority prior to the commencement of development on site. The scheme shall include measures to prevent dust escaping from the site (for example wet suppression of dust during dry periods or cessation of activities during windy conditions). The approved scheme shall be implemented in its entirety during the entire construction period.

25) No development (excluding demolition/site clearance) shall take place until monitoring at the site for the presence of ground/landfill gas and a subsequent risk assessment has been carried out in accordance with a scheme to be agreed in writing by the local planning authority. The results of the monitoring shall be forwarded to the local planning authority as soon as they are available. If the presence of ground/landfill gas is confirmed, or there is evidence that migration of ground/landfill gas is likely to occur, development shall not be commenced until remedial measures have been taken to control and manage the gas, and to monitor the effectiveness of the measures. All such measures shall be agreed in writing by the local planning authority before the commencement of the development.

26) No development, including demolition, shall take place until a Conservation Statement has been submitted to and approved by the local planning authority in writing. This document shall provide details of the proposed retention of features relating to the Peak Forest Tramway Trail along the southern boundary of the site, and the measures to be taken during the development to avoid impacts to these features.

27) No development, including demolition, shall take place until a Written Scheme of Investigation for historic building recording and archaeological work has been submitted to and approved in writing by the local planning authority, and until any prestart element of the approved scheme has been completed in accordance with the approved scheme. The scheme shall include an assessment of significance and research questions; and:

    a) The programme and methodology of site investigation and recording;

    b) The programme for post investigation assessment;

    c) Provision to be made for analysis of the site investigation and recording;

    d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;

    e) Provision to be made for archive deposition of the analysis and records of the site investigation; and,

f) Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

28) No development shall take place other than in accordance with the archaeological Conservation Statement and Written Scheme of Investigation approved under Condition Nos. 26 and 27.

29) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under Condition No. 27 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.