

From: [Whaley Bridge Matters](#)
To: [Colley, Jane](#)
Cc: [Haywood, Ben](#); [Thomson, Kath \(Cllr\)](#); [Thomson, Shannon-Kate \(Cllr\)](#); [Lomax, David \(CLLR\)](#); [Planning Comments \(HPBC\)](#); [Ruth George \(Electe.\)](#); [LARGAN, Robert](#)
Subject: URGENT: HPK/2021/0053
Date: 20 March 2021 21:33:08

Dear Ms Colley

Thank you for your email below. We note that the consultation period in relation to the above planning application (which relates to the erection of flagposts and signage on land adjoining the Linglongs Road site) is due to end on 25th March 2021. Given our challenge to the legality of the use of "permitted development" in relation to the developer's proposals to build a sales office on this adjoining land (see email exchange below) and the close interrelation between this and said signage/flagpoles, we would request that no decision is taken in relation to the above application until such time as this related matter is resolved.

We would be grateful if you could confirm that HPBC will be pausing HPK/2021/0053 for the present time.

Yours sincerely

Whaley Bridge Matters

On Fri, 19 Mar 2021 at 10:29, Colley, Jane <Jane.Colley@highpeak.gov.uk> wrote:

Dear Whaley Bridge Matters,

Thank you for your email, the content of which I note, I shall take some legal advice and come back to you.

Regards,

Jane Colley

Principal Planning Officer

High Peak Borough Council and Staffordshire Moorlands District Council

Direct Dial: 01298 28400 ext 4981

Mobile: 07976 753726

From: Whaley Bridge Matters <whaleybridgematters@gmail.com>

Sent: 17 March 2021 21:55

To: Colley, Jane <Jane.Colley@highpeak.gov.uk>; Haywood, Ben <Ben.Haywood@highpeak.gov.uk>

Cc: Thomson, Kath (Cllr) <Kath.Thomson@highpeak.gov.uk>; Thomson, Shannon-Kate (Cllr) <Shannon-Kate.Thomson@highpeak.gov.uk>; Lomax, David (CLLR) <David.Lomax@highpeak.gov.uk>; Planning Comments (HPBC) <PlanningCommentsHPBC@highpeak.gov.uk>; Ruth George (Electe. <Ruth.George@derbyshire.gov.uk>; LARGAN, Robert <robert.largan.mp@parliament.uk>

Subject: URGENT: Serious issue with proposal for temporary sales office - Linglongs Road, Whaley Bridge

Dear Ms Colley and Mr Haywood

We are writing to you in relation to the temporary sales office which Barratt Homes are proposing to erect on greenfield land adjoining the Linglongs Road development site. A structure which is to be installed for more than 28 days requires planning consent unless it constitutes 'permitted development'. We were copied in to correspondence which Ms Colley had with Mrs Kath Ashton (email of 4th March 2021) in which Ms Colley confirmed that HPBC did not believe that the temporary sales office required planning permission as they believed that it fell within 'permitted development' as set out in the Town & Country Planning (General Permitted Development) Order 2015 ("GPDO") Schedule 2 Part 4.

Whaley Bridge Matters and local residents have a legitimate interest in having any plan of this sort, in a sensitive (green field) location considered by HPBC as the local planning authority ("LPA") through the planning application process which would allow it, if approved, to be properly controlled through planning conditions. HPBC has a duty to do this, unless the development clearly falls within the provisions of the GPDO. **It does not. Rather, it fails to meet key requirements for permitted development.**

The salient parts of GPDO Schedule 2 Part 4 are that *"The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land"* form permitted development and do not require planning permission.

The "operations" in this case are the road and house building works presently underway on the adjoining site. This has been confirmed by HPBC in their email to Mrs Kath Ashton of 4th March 2021. The question then is whether the sales office on separate land is "**REQUIRED** temporarily in connection with" these building works. On conventional principles of statutory interpretation the purpose of the Order and the circumstances to which it is applied are the determinants. "Required" means that the 'connection' between the proposed building or structure and its use has to be one which is necessary for the carrying out or completion of the operations (i.e. the physical building works themselves). There must be a direct, practical, operational connection - the proposed building/structure at least playing a facilitative or ancillary role in undertaking the construction project "on, in, under or over ... land adjoining that land". That this is the purpose of Schedule 2 Part 4 is demonstrated by the language in A.3 which imposes a temporal relationship between the physical works and the proposed structure - the structure must be one which is needed "temporarily" and "for the duration of the operations".

Part 4 A.2 of the GPDO is intended to give general permission for construction-related facilities such as large jigs and working platforms, equipment stores and site offices. This is not the case here. The purpose of the sales office is to advertise and commercialise houses. Its function is directed to the disposal of houses in the future, at a time when, by definition, the building operations will have been completed. It has no ancillary, facilitative or other connection with the operations themselves (which, it is agreed, are the building works). It certainly has no connection which is "required" for those operations, which are already in progress and are capable of being pursued whether or not there is a sales office off-site. Further, it is also clearly not "*required ... for the duration of operations*" as the planning permission includes the provision of an on-site sales office which is to be put in place early in the construction process - it therefore cannot be said that they 'require' one off-site at all.

The GPDO does not, as seems to be the position of HPBC, permit any structure on adjoining land 'which has anything at all to do with' the developer's commercial intentions for the main site. Where permitted development rights are claimed, especially in a green field location, the LPA has a duty to scrutinise this carefully. It should consider the need for controls and conditions on the development (including as to the duration of its use) which may only be achievable through conditions and other powers which it has under the planning application process and should require that process to be followed where there is doubt as to the claim to those rights. This is not a case where, if HPBC properly directs itself on the law, there is even such doubt. **It must require a planning application to be made for this proposal.**

Please give this correspondence your full and urgent attention. The legal position here is clear. GPDO Schedule 2 Part 4 cannot be relied upon. This is not "permitted development". You are now clearly on notice that you will be acting outside of your powers as the LPA if you allow the developer to proceed with the construction of a temporary sales office without first requiring a planning application to be made.

We look forward to receiving confirmation of your position and actions to be taken given the clear legal position highlighted above.

Yours sincerely

Whaley Bridge Matters

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