Kay Neild

From: Ben Pycroft <>
Sent: 30 October 2020 16:27
To: Simpkin, Rachael.; Haywood, Ben; Rawdon Gascoigne
Cc: Colley, Jane;
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Hi Rachael

Yes please upload the legal opinion along with your report for the October committee, which it relates to.

Kind regards

Ben Pycroft BA (Hons) Dip TP MRTPI
Director

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From: Simpkin, Rachael.
Sent: 30 October 2020 12:27
To: Ben Pycroft <; Haywood, Ben ; Rawdon Gascoigne <

Cc: Colley, Jane **Subject:** RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Hi Ben,

Thank you for your response.

In the interim, I have spoken to Monica Gillespie and understand that the tree reports have been submitted to her for informal comments only at this stage.

Therefore we require the tree reports to be formally submitted to us today so that we can place them on the public file.

I will also request that the section plans be uploaded to the public file.

Please confirm if you wish for Counsel's opinion to be placed on public file as it will not be appended to the committee report.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

---

From: Ben Pycroft
Sent: 30 October 2020 12:21
To: Simpkin, Rachael.; Haywood, Ben; Rawdon Gascoigne
Cc: Colley, Jane;
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Hi Rachael

Thanks for your e-mail.

As you know, we have responded to all of these points already and do not consider there is any merit in delay. Please present this application to the November committee.

In doing so, please append to your report Mr Easton's legal opinion, our letters of 18th September and 30th October 2020 and the section plans, which have still not been uploaded to the Council's website.

Many thanks

Ben Pycroft BA (Hons) Dip TP MRTPI
Director

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From: Simpkin, Rachael.
Sent: 30 October 2020 11:55
To: Ben Pycroft <; Haywood, Ben <>; Rawdon Gascoigne
Cc: Colley, Jane < **Subject:** RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Hi Ben,

Thank you for the quick response.

Firstly, the tree reports should be submitted to Planning Support as revised information. We are happy for you to cc the case officer and relevant consultees so that we are aware of the submitted information.

The scheme will be refused on the principle of development H1, housing mix, landscape and design.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

From: Ben Pycroft
Sent: 30 October 2020 11:51
To: Simpkin, Rachael.; Haywood, Ben; Rawdon Gascoigne
Cc: Colley, Jane;
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Hi Rachael

Thank you for your e-mail

The tree officer already has the draft reports, which in any case have been progressed alongside Ruthe Baker at DCC and Monica. Consequently, we do not see this should hold matters up as the consultation has already effectively taken place.

Can you please confirm that the tree reports are the only outstanding matter now and you will be writing the application up for approval so that I can advise my client and seek instructions accordingly with regards to your request for an extension of time?

Kind regards

Ben Pycroft BA (Hons) Dip TP MRTPI
Director

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From: Simpkin, Rachael. **Sent:** 30 October 2020 11:36

To: Ben Pycroft Haywood, Ben <; Rawdon Gascoigne
Cc: Colley, Jane **Subject:** RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Hi Ben,

Thank you for your email, the points of which will be addressed within the committee report.

In terms of outstanding tree issues, clearly consultees will require adequate time to assess the application submission – the norm being 21 days.

It therefore appears highly unreasonable to expect the still awaited tree reports to be assessed by the consultee and in the round by the case officer within a matter of days as has been recognised at appeal.

We have been reasonable in that we have offered you a further time extension to the date of the next committee i.e. 14th December 2020 to allow the awaited tree information to be assessed, which the applicant has declined.

Please respond by 1pm today if you wish to suitably time extend as we have set out.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

---

From: Ben Pycroft [
Sent: 30 October 2020 08:56
To: Haywood, Ben; Rawdon Gascoigne; Simpkin, Rachael.
Cc: Colley, Jane;
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Dear All

Please find attached our response to Rachael's e-mails of Tuesday and Wednesday, in relation to the extant permissions, policy H1 and trees.

There is no reason for this application to be held back and we would like it to be presented to the November planning committee.

Kind regards

Ben Pycroft BA (Hons) Dip TP MRTPI
Director

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From: Haywood, Ben
Sent: 29 October 2020 12:32
To: Rawdon Gascoigne <; Simpkin, Rachael.
< Ben Pycroft <
Cc: Colley, Jane <J**Subject:** RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Dear Rawdon
Thank you for your email and phone message
I have discussed the case with Rachael this morning and we would be happy to defer the item further until December to allow discussions to continue, particularly with regard to the trees.
I think that the opinion that you have provided does address the fallback position adequately but, notwithstanding whether a fallback exists it doesn't alter our view with regard to the conflict of the scheme with policy H1
However, whilst ultimately we may agree to disagree over the H1 principle of development we would like to work with you to resolve other issues to minimise reasons for refusal and areas for discussion at Appeal in accordance with the advice
If you are able to agree the necessary time extension I am happy to pull it off the November agenda.
I'm out of the office this PM so if you could copy Rachael into any reply, I'd be grateful
Many thanks
Ben

Ben Haywood
Head of Development Services
Staffordshire Moorlands District Council / High Peak Borough Council

From: Rawdon Gascoigne <
Sent: 28 October 2020 17:24
To: Simpkin, Rachael. <>; Ben Pycroft < **Cc:** Colley, Jane <>; Haywood, Ben <
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Rachael,

I am somewhat astonished by your response below. You appear to have confirmed that irrespective of the additional information you have asked us to respond on, the application would be refused.

You have given us less than 24 hours to respond to the requests for additional information related the implementation of the previous permissions despite us chasing a response from the Council for the last 3 weeks. The extension of time is not a ransom for whether this information should be considered or not.

With regards the trees, that matter is in hand but the respective parties only met on site on the 15th and we then needed to await a response from Monica Gillespie after the meeting to allow the reports to be prepared. We understand that Monica and DCC are now effectively satisfied that there will be no adverse impact on the trees and the report which we anticipate being ready by tomorrow/Friday will provide the information to confirm that.

With regards your email, please confirm what is the basis for you considering the classroom has not been converted and what works you consider may be unauthorised as it is not clear, especially as your own building control records show that what was inspected was a conversion.

Secondly, please clarify how you do not consider the submission of Jonathan Easton to have not dealt with the lawful implantation of the previous permission. This was dealt with at length in the opinion and was based on the Council's own documents that had previously confirmed that the permissions had been implemented. I would remind you that the test is the balance of probabilities and that at present you have not set anything out to contradict what has been submitted by ourselves or what was set out in the opinion.

Given the apparent intransient position you are now taking, we will submit this additional information ahead of the planning committee and it will have to be dealt with via an update. I am more than happy however to discuss matters further tomorrow to see if we can resolve the position and avoid the need to progress an appeal. I have left a message for Ben Haywood to similar effect.

Kind regards,

Rawdon Gascoigne BA (Hons) MRTPI
Director

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From: Simpkin, Rachael.
Sent: 28 October 2020 15:33
To: Rawdon Gascoigne ; Ben Pycroft <
Cc: Colley, Jane <; Haywood, Ben <
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Dear Rawdon,

To clarify our position:

The scheme has only been time extended to the next committee being the 14th November 2020 and goes to print this Friday 30th October 2020.

The scheme is contrary to LP Policy H1 i.e. it does not adjoin the development boundary, neither is it well related with the existing pattern of development and surrounding land uses nor is it of an appropriate scale for the settlement.

Then we turn to the fallback position regarding the 2009 and 2013 permissions. We have simply asked you to evidence the works undertaken to implement either of these schemes – this of course includes the classroom 'conversion'.

Then we turn to the other material considerations in the decision making process that even if a robust fallback position can be established for the 2009 and 2013 schemes i.e. mostly conversion of existing buildings within a more contained and level site area –

It is clear that the proposed scheme is fundamentally different for the fallback position as a material consideration in the planning balance to carry any significant weight to overcome such LP Policy H1 objections.

We were under the impression that you wished to resolve the trees issues, however, the relevant information has not yet been submitted to allow this to occur and therefore this reason for refusal stands.

Given there is no time extension beyond the 14th November 2020 to encompass the next committee i.e. 14th December 2020 we will proceed with a recommendation of refusal for the 9th November 2020 meeting.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

From: Rawdon Gascoigne
Sent: 28 October 2020 14:51
To: Simpkin, Rachael.; Ben Pycroft
Cc: Colley, Jane; Haywood, Ben;
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Rachel,

Further to your email below, I am not sure what your reference to the extension of time being required in view of print deadlines actually means. Agreeing an extension of time should not and cannot be related to what the actual recommendation on decision on the application will be i.e. it will be refused if we do not agree an extension of time at this point. The council have already accepted that the previous recommendation to refuse was flawed in response to the opinion from Jonathan Easton and that you require the additional information to come to a reasoned conclusion. We will collate that information but we do not consider that it is reasonable for a formal extension of time to determine to be linked to the decision to be reached.

I am still awaiting instruction and will respond when we have had a response from our client.

Kind regards,

Rawdon Gascoigne BA (Hons) MRTPI
Director

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From: Simpkin, Rachael.
Sent: 28 October 2020 13:33
To: Rawdon Gascoigne < Ben Pycroft > **Cc:** Colley, Jane <; Haywood, Ben
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Dear Rawdon,

Thank you for your email response.

We consider that the points raised require clarification as has been set out.

The scheme submission has not yet addressed tree concerns to once again constitute a reason for refusal.

The time extension agreement should be received today in view of print deadlines.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

From: Rawdon Gascoigne
Sent: 28 October 2020 12:25
To: Simpkin, Rachael.; Ben Pycroft
Cc: Colley, Jane; Haywood, Ben;
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Dear Rachael,

Further to your email below I can confirm that we will be responding to the various points you raise albeit we consider they have all already been dealt with through the information and Counsel's opinion previously submitted.

With regards the extension of time, I am currently seeking our client's instructions and will confirm as soon as I am able, however I am tied up with Inspector calls preparing for an imminent Public Inquiry and as you know Ben is also on leave until tomorrow.

Kind regards,

Rawdon Gascoigne BA (Hons) MRTPI
Director

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From: Simpkin, Rachael.
Sent: 27 October 2020 17:57
To: Ben Pycroft <
Cc: Colley, Jane <>; Haywood, Ben <; Rawdon Gascoigne <
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Hi Ben,

In response to the points raised, we respond as follows:

You are required to set out whether you have implemented the 2009 or 2013 permission and specifically how?

The classroom conversion appears as a new build and therefore does not comply with the approved scheme. You are required to provide evidence to the contrary.

In terms of LP Policy H1, the scheme does not adjoin the development boundary as would have been corrected in the committee update sheet.

You are required to submit a BS5837 tree report accompanied by a Tree Protection/Method Statement to allow appropriate consultation.

To allow these matters to be further addressed I would suggest that we agree to a further time extension to encompass the 14th December meeting i.e. 18th December 2020.

Please confirm if you agree to the time extension by 1pm tomorrow in view of my committee report deadline.

Kind regards,

Rachael Simpkin
Senior Planning Officer (Majors & Commercial)
Development Services

High Peak Borough Council and Staffordshire Moorlands District Council

---

From: Colley, Jane
Sent: 27 October 2020 11:53
To: 'Ben Pycroft'
Cc: Haywood, Ben; Rawdon Gascoigne; Simpkin, Rachael.
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Good morning Ben,

Many apologies for the delay in getting back to you, you caught both Ben and I as we were preparing for the Staffs Moorland Planning Committee last Thursday, so we were tied up with that. Myself, Ben and Rachael have reviewed all of the information you have presented including Counsels Opinion and we will be responding to you later today. There are a number of questions which have arisen and therefore Rachael will set these out to you in her email.

Kind regards,

Jane Colley
Principal Planning Officer

High Peak Borough Council and Staffordshire Moorlands District Council

---

From: Ben Pycroft
Sent: 21 October 2020 09:22
To: Rawdon Gascoigne <>; Colley, Jane ; Haywood, Ben <
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Morning Ben and Jane

Could you please respond to Rawdon's email today?

As you know, we only agreed an extension of time until 9th October so that we could get on the October committee and therefore the determination date has passed. I note that the portal now says that the application will be presented to the committee on the 9th November, but as below we have not heard anything from you since the application was withdrawn from October's agenda. As Rawdon says, we would be happy to meet to if required.

In relation to trees, as Monica is aware we are going to provide all of the necessary information to address her concerns outlined in the previous committee report in time for November's committee. This should avoid the need for a pre-commencement condition re: trees.

Kind regards

Ben Pycroft BA (Hons) Dip TP MRTPI
Director

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From: Rawdon Gascoigne <
Sent: 13 October 2020 17:42
To: Colley, Jane <

Cc: Ben Pycroft < **Subject:** RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Jane/Ben,

Further to my email below, our client has now arranged to meet on site with Monica Gillespie on Thursday together with DCC and our landscape architect to review the position with regards the trees on site and landscaping generally.

In anticipation that agreement can be reached on those matters please can you advise when we will be able to meet to discuss how the application can now be progressed and what additional information may be required ahead of preparing a revised committee report. Obviously if you are satisfied that the information and Counsel's opinion submitted prior to committee now enables the report to be revised and presented with a positive recommendation then there may be no need to meet but if there are outstanding matters then obviously we need an opportunity to

address these well ahead of any report being drafted as that was one of the issues picked up by Counsel in terms of how the application had been dealt with.

I would be grateful if you could respond as soon as possible as I am conscious that the deadline for drafting committee reports will now be fast approaching to get to November's committee.

If you need to discuss anything then please do not hesitate to contact either myself or Ben.

Kind regards,

Rawdon Gascoigne BA (Hons) MRTPI
Director

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From: Rawdon Gascoigne
Sent: 02 October 2020 13:09
To: 'Colley, Jane' < Emma Bennion <
Cc: Ben Pycroft <
Subject: RE: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge

Dear Jane,

Thank you for confirmation that the above application has been deferred from committee on Monday. We agree to the extension of time on the application to allow the application to go to November's committee.

In the meantime we will also look to address the comments contained in the late consultation responses. In particular, the tree officer at DCC (the existing TPO at site is a DCC TPO and work on those trees has been subject to ongoing discussion with Ruth at DCC) is willing to meet on site as soon as possible together with our client and your tree officer. We understand that Monica Gillespie returns from leave next week so would be grateful if she could contact us as soon as possible to arrange a convenient time to meet. On the other consultation responses we will prepare a response of our own and would then be grateful if a meeting can be arranged to work through those points.

I trust this brings things up to date and we will await hearing from you further on a convenient time for the respective meetings.

Kind regards,

Rawdon Gascoigne BA (Hons) MRTPI
Director

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From: Colley, Jane <
Sent: 02 October 2020 12:20
To: Emma Bennion
Cc: Rawdon Gascoigne <
Subject: FW: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Dear Emma/Rawdon,

I have received Bens out of office message and therefore I wondered if you could respond to my email below?

Kind regards,

Jane Colley
Principal Planning Officer

High Peak Borough Council and Staffordshire Moorlands District Council

---

From: Colley, Jane
Sent: 02 October 2020 12:16
To: Ben Pycroft
Cc: Simpkin, Rachael.
Subject: FW: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Good afternoon Ben,

Thank you for the attached Counsel opinion and comments below. We agree that the application should be withdrawn from the October committee, so that the Council can consider the opinion and the details you set out below.

Therefore can we agree a time extension with you until Friday 13th November? The next available committee is scheduled for the 9th November, so hopefully this will give us sufficient time to consider the points raised and discuss this matter further with you.

Kind regards,

Jane Colley
Principal Planning Officer

High Peak Borough Council and Staffordshire Moorlands District Council

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From: Ben Pycroft
Sent: 01 October 2020 13:30
To: Haywood, Ben; Simpkin, Rachael.
Cc: Rawdon Gascoigne
Subject: HPK/2020/0301 - Taxal Edge, Macclesfield Road, Whaley Bridge
Importance: High

Dear Ben and Rachael

Principle of development

Further to our earlier correspondence please find attached a legal opinion from Jonathan Easton at Kings Chambers, which addresses the committee report and the three reasons for refusal within it. You will note from this that Counsel concludes that the Applicant benefits from a fallback position due to the lawful use of the building not being as set out in the report and the extant permissions at the site being a valid material consideration. The opinion therefore concludes that the Council should withdraw the application from committee as the report is fundamentally flawed and engage proactively with us and reconsider the application. We consequently ask that the

application be withdrawn from the agenda. If the Council does not withdraw the application from the agenda then we ask that the attached opinion be sent to the members of the development control committee as an update along with the section plans. You will also note the potential consequences should our client have to pursue this matter at appeal.

Housing Mix

In Rachael's e-mail yesterday, it was indicated that the Council is also likely to add an additional reason for refusal in relation to Housing Mix. We respond as follows:

Firstly, we ask whether this policy applies in this case given that it asks for all residential development to provide a range of market and affordable housing types and sizes but in this case there is no requirement for any affordable housing due to the fact it is for only 6 dwellings (net). Clearly the policy is relevant to much larger sites where affordable housing is to be provided. If the preferred housing mix of 1 and 2 bed terraced houses is pursued (we have deduced this from the documents as the committee report has neither narrative nor analysis of what would be an appropriate mix), that would also result in demolition of the existing buildings and a property type which is out of character with its surroundings, both of which are something the Council is seeking to resist as part of this proposal.

Secondly, whilst we note the comments made in the Officer's Report, the Council is aware that we provided a statement on housing mix on behalf of Barratt Homes for their site off Macclesfield Road / Linglongs Road in close proximity to the application site (LPA ref: HPK/2017/0247). Our report, which was accepted by the Council concludes the following, which are equally relevant to the application site:

- Whilst the policy advice set out in the SHMA proposed a mix of 10% 1-bedrooms, 45% 2-bedrooms, 25% 3-bedrooms and 10% 4-bedrooms, this is based on a housing needs survey which is over 10 years old and does not take into account up to date evidence on people's aspirations;
- Nevertheless, the policy advice in the SHMA is to be applied flexibly and the Council has clearly done this elsewhere in the Borough, including where permission has been granted since the HPLP has been adopted;
- The policy advice in the SHMA also stated that the mix set out should be subject to viability testing. However, the viability study did not test the proposed mix in the SHMA. It tested the mix based on existing permissions, which resulted in a higher proportion of 3 and 4 bedroom properties than the SHMA proposes;
- The Viability Study however did look at the context of the Borough and assessed each area. Following interviews with local estate agents in summer 2013, the Viability Study concluded that there was a demand for 2 and 3 bedroom properties in Whaley Bridge. However, up to date information from the two estate agents based in Whaley Bridge is that there is a high level of demand for 3 and 4 bedroom detached family homes in Whaley Bridge;
- We have looked at the existing housing stock and note that there is a higher proportion of larger properties (i.e. 4 and 5 bedroom properties) in Whaley Bridge than in the rest of High Peak. Taking into account the completions and commitments since 2011 and applying the proposed mix of the application site, there would be no material difference between the make-up of the housing stock in 2011 and now; and
- Whilst on the one hand policy H3 seeks to secure a range of housing based on the policy advice set out in the SHMA (criterion b) on the other hand, it seeks to ensure that the mix of housing takes account of the characteristics of the existing housing stock in the surrounding locality (criterion c). In this case, whilst there are smaller terraced and semi-detached along both sides of Macclesfield Road, the characteristics of the existing development behind Macclesfield Road are predominantly detached 3, 4 and 5 bedroom properties and consequently the proposed housing at the application site would be fully in accordance with this.

Our report, which you will be aware of is available on the Council's portal: http://planning.highpeak.gov.uk/portal/servlets/AttachmentShowServlet?ImageName=415227. On this basis, a reason for refusal on housing mix in this location would not be justified.

Next steps

Please confirm how the Council intends to proceed today.

Kind regards

Ben Pycroft BA (Hons) Dip TP MRTPI
Director

Emery Planning is proud to support the Keaton Emery Memorial Foundation. To find out more about the charity or to make a donation, please visit www.keatonemeryfoundation.com

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