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2 October 2022

Dear Sirs,

PLOT 27 ( 4, KILN CLOSE, DOVE HOLES SK17 8FQ) & PLOT 52,  
LAND AT REAR OF HALLSTEADS, DOVE HOLES.

APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY  
PLANNING ACT 1990.  
PROPOSED VARIATION OF CONDITION NO.2 OF RESERVED MATTERS  
APPROVAL HPK/2016/0488 DATED 25 OCTOBER 2019 TO ALLOW  
ADDITION OF DRAWING NUMBERS FOR SUBSTITUTION OF HOUSE  
TYPE FOR PLOTS NO.S 27 & 52 ONLY.

The above application and relevant fee of £234.0 is submitted today via the Planning Portal, reference PP 1157 2255, for determination by High Peak Borough Council.

The application relates to minor material changes to the approved dwellings on plots no.s 27 and 52 only of phase two and phase three respectively, and no other part of the approved development for 102 dwellings.

#### Background

This site has been known generically as 'land at the rear of Hallsteads' during the various planning application stages. Development is underway following the grant of outline planning permissions for the whole site under HPK/2013/0319 and HPK/2013/0625, and reserved matters approval for 21 dwellings in phase one under HPK/2015/0563. The outline permission was re issued on 16 December 2018 under HPK/2018/0526 to facilitate a phased discharge of highways conditions and phased development.

The remaining reserved matters in phases two and three were approved under HPK/2016/0488 on 25 October 2019.

The phase two section of Walker Brow is the subject of a completed and signed Section 38 Agreement, and financial bond, with Derbyshire County Council to enable future adoption of that part of the on-site highway. It is understood that High Peak Borough Council is, therefore, likely to approve the formal application DOC /2020/0061 to discharge the two relevant highways conditions ie no. 2 of HPK/2018/0526 and no.13 of HPK/2016/0488. That approval will complete the discharge of all conditions precedent for phase two.

Phase one followed a similar process and is now complete and served by the adopted section of Walker Brow in that part of the overall site. It is acknowledged that the same two highways conditions will need to be discharged for phase three. All other conditions precedent throughout the site for 102 dwellings have already been discharged by the Council.

#### Proposal

Reserved Matters approval HPK/2016/0488 is the subject of this S73 application. It is proposed that condition no.2 should be varied to include new drawing numbers to facilitate a substitute house type on plots no. 27 ( postal address allocated as no.4 Kiln Close ) and plot no.52 ( postal address not yet allocated ) only.

The approved drawings identified in condition no.2 include:

#### Plot 27 L558 / 22 Rev C

4 bed house type C floor plans and elevations.

#### Plot 52 L558 / 26 Rev C

4 bed type F ( room in the roof ) floor plans and elevations.

L558/66 Rev G ( definitive ) scheme setting out, being the site layout plan for the whole site. This drawing shows all three phases of the development.

The above drawings are again submitted for clarity. The approved detail for plot 27 relates to that single plot only and so will be superseded by the proposed drawing identified below for plot 27 only.

The approved detail for plot 52 is replicated on several other plots throughout the wider site and so must be retained as a live working drawing alongside the proposed drawing identified below for plot 52 only.

The proposed new drawing numbers are:

Plot 27 L558 / 141

4 bed floor plans and elevations.

Plot 52 L558 / 144

4 bed type F ( room in the roof ) floor plans and elevations.

L558 / 145 location plan showing plots no.s 27 and 52 only edged red in the context of the overall approved development.

Assessment

The legislative provision for making minor material changes to a development which already has formal approval is found in S73 of the Town and Country Planning Act 1990 ( the 1990 Act ). This provides for the submission of applications for development without complying with previous conditions. S73 (2) requires consideration only of the conditions, and that the Local Planning Authority should either issue an approval unconditionally or subject to different conditions, or refusal where it is judged that the original conditions should remain.

Case law from Pressland in 2016 and later Fulford Parish Council confirms that the conditions attached to various approval types including reserved matters, in this case HPK/2016/0488, fall within the ambit of S73.

The substantive changes to plot no.27 are a single storey side extension to the east flank of the dwelling, under pitched roofs to provide garage and

storage facilities; single storey rear extension under a lean-to roof to provide a sun lounge facility; and conversion of the integral garage to a second ground floor reception room ( previously approved as a Non Material Amendment under NMA/2020/0023 on 11 December 2020 ). The proposed garage extension stands adjacent to the garage and parking of the neighbouring dwelling to the south ( plot no.26 – now occupied as no.5, Kiln Close ) and as such it would have no undue impact on the amenity and use of that property. The rear extension would stand well clear of, and angled away from, the garden boundary with the neighbouring dwelling to the west ( plot no.28 ), with no windows in that facing elevation, and thus with no impact on the amenity and use of that dwelling. The garage conversion is achieved by infilling of the opening and insertion of a three light window to match that above and raises no issues.

The proposed amendments to plot no.52 are for a full width single storey rear extension under a lean-to roof, with two high level rooflights; reposition of front elevation rooflight to rear main roof slope. The proposed extension is of modest size and scale, with no windows facing towards the approved neighbouring dwelling to the north ( plot no.53 ) which has ground floor garaging close to the joint boundary, or towards the approved dwelling to the south ( plot no.51 ) which has its parking provision next to the boundary. It is the type of extension that is commonly constructed on such dwellings and will have no significant impact on the amenity and use of those neighbouring properties.

External materials for both plots remain unchanged from the approved scheme, being reconstructed tumbled and split face stone in natural / buff to walls; reconstructed smooth stone in buff to cills and heads; plain grey tiled roof; UPVC windows, doors ( white / oak ); rainwater goods in UPVC black; and fascias and soffits black painted timber.

Both dwellings will retain the approved four bedrooms and three parking spaces, in accord with the Council's standards. The only difference is the

proposed garage extension for plot no. 27 will sit in place of one of the approved external parking spaces. Parking for plot no.52 is unaffected.

Access to the approved highway network for both plots is unchanged. Plot no. 27 is accessed from the private cul de sac Kiln Close, off Walker Brow, in phase two. Plot no. 52 will directly access the northwards extension of the adopted Walker Brow in phase three.

There are therefore no policy, amenity, highways or legislative/technical impediments to approving the current application.

### Conclusions

S73 of the 1990 Act enables minor material amendments to a development where a condition on a previous approval identifies the approved drawings, as in this case. The proposed amendments to plots no.s 27 and 52 can reasonably be described as minor material for the plots taken both in isolation, and also in the wider context of the overall approved development for 102 dwellings. In that light and since no significant planning issues arise it is considered that there is no impediment to approval under S73(2) of the 1990 Act. Approval can therefore be safely issued subject to a condition(s) identifying the new drawings, as detailed above. Such an approval would sit alongside approval HPK/2016/0488 which will remain live.

It would be appreciated if the Council can advise whether anything further is required for validation purposes and confirm the determination date in the usual way.

Yours sincerely,

Michael Green

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