

DELEGATED DECISION REPORT

HPK/2023/0022
Valid 27/01/2023

**LAND EAST OF
THORNSETT BAND CLUB
THORNSETT TRADING
ESTATE
BIRCH VALE**

**ERECTION OF A 2.4M HIGH
PALISADE FENCE WITH
GATES TO THE BOUNDARY
FRONTING THE ACCESS
ROAD TO THORNSETT
INDUSTRIAL ESTATE AND
AROUND THE EXISTING
SUBSTATION**

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Flood Risk
- Trees
- Design, Character and Appearance
- Highway Safety

DESCRIPTION OF SITE

The application refers to a parcel of land that lies to the east of the single storey Thornsett Band Club and the western boundary of the Thornsett Trading Estate, Birch Vale.

The site is characterised by scrub land, natural vegetation and mature trees. To the west is a small electricity sub-station. The site is currently bordered by a post and wire fence approximately 1 metre in height which as confirmed by way of a site visit, is in state of disrepair.

The site lies within the open countryside, is covered by a Tree Preservation Order (TPO) and within Flood Zones 2 and 3.

PROPOSAL

The application seeks full planning permission to replace the existing fence with the erection of a 2.4m height palisade fence with 2no. entrance gates positioned close to the access to Thornsett Trading Estate, immediately east of the Bank Club building, and on its eastern boundary closest to the Industrial Estate.

The Elevation Plans shows the appearance of the fencing, which would be built on top of concrete footings, and coloured green.

Further to a request from Officers for the applicant to provide a justification for the proposals, the applicant has stated that the proposed fence is to secure the site and prevent trespass, with the current post and wire fencing being in a poor state with a number of issues with trespassers on the land.

The applicant goes on to state that the proposed metal fencing would allow the visual connection to the site to remain whilst improving security, similar to the fencing found further along into the industrial estate around the existing industrial buildings

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

S1 Sustainable Development Principles
S1a Presumption in Favour of Sustainable Development
EQ3 Rural Development
EQ6 Design and Place Making
EQ9 Trees, Hedgerow and Woodland
EQ11 Flood Risk Management
CF6 Accessibility and Transport

National Planning Policy Framework 2021

Achieving Sustainable Development	Chapter 2
Promoting Sustainable Transport	Chapter 9
Achieving Well Designed Places	Chapter 12
Protecting the Green Belt	Chapter 13
Meeting the Challenge of Climate Change	Chapter 14
Conserving and Enhancing the Natural Environment	Chapter 15

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

No relevant history

CONSULTATIONS

Publicity

Site Notice expiry date: 3rd April 2023
Neighbour consultation period ends: N/A
Press Advert: N/A

Public Comments

A joint letter of objection has been received from a total 9no. local residents in connection with the application. The grounds of objection are summarised as follows:

- No justification for increased in height in fencing
- Use of palisade fencing is visually intrusive and harm rural landscape character
- Sub-station should also be supplemented by additional soft landscaping to reduce landscape and visual impacts

New Mills Town Council Comments

No objection.

HPBC Tree Officer

No objection subject to the following condition:

- 1. No operations shall commence on site in connection with development hereby approved until a suitable scheme for the protection of existing trees and hedgerows has been submitted and has been approved in writing by the Local Planning Authority.*

All protection measures must fully detail how trees and their root systems will be:

- *Protected from soil compaction through the storage or movement of plant, materials and waste.*
- *Protected from poisoning from the installation of the concrete fence post bases.*
- *Protected during any excavation works.*
- *Protected from long exposure following excavation.*

Lead Local Flooding Authority

No comments to make.

Derbyshire County Council Highways

The access road to the north of the application site to which the proposed fence will front is not part of the publicly maintainable highway network. On this basis and also considered that the fence will not impact the junction of the access road and High Hill Road, there are no highway objections to the application.

OFFICER COMMENTS

Principle of Development

The application site lies outside of the built-up area boundary in the open countryside, within Flood Zones 2 and 3 and within a Tree Preservation Order.

As such, the application is subject to Local Plan Policies EQ3 (Rural Development), EQ9 (Trees) and EQ11 (Flood Risk Management), together with restrictive policies contained under Chapter 14 of the NPPF aimed at meeting the challenge of climate change.

The application can thus only be supported in principle where it can be demonstrated that the proposal is compliant with the above relevant local and national planning policies, notwithstanding all other relevant planning considerations.

Trees

LP Policy EQ9 relates specifically to trees, woodland and hedgerows, and requires that existing woodlands, healthy mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss. Chapter 15 of the NPPF contains the relevant national policies relating to the conservation and enhancement of the natural environment.

The application has been supported by a very brief Arboricultural Impact Assessment that simply states that there would be no impacts on trees protected by a Tree Preservation Order (TPO).

The Tree Officer has not raised any objections subject to further details being submitted in the form of a scheme for the protection of existing trees and hedgerows being submitted and approved. Written confirmation has been received from the applicant of their agreement to this pre-commencement condition.

As such, subject to compliance with this condition, there are not considered to be any adverse impacts to protected trees arising from the proposed development, in accordance with LP Policy EQ9 and relevant paragraphs under Chapter 15 of the NPPF.

Flood Risk

LP Policy EQ11 refers to Flood Risk Management and requires all applications to demonstrate that the proposed development will not give rise to any unacceptable increase in flood risk either onsite or elsewhere in the Borough. Chapter 14 of the NPPF contains the relevant national policies that relate to flood risk.

The site lies within Flood Zone 2 and 3. The plans include a very short Flood Risk Assessment which submits that due to the development only involving the installation of an open fence, there would be no material impacts to flood risk either on site or further downstream.

In light of the fact that the Lead Local Flooding Authority have no comments to make and given the very minor scale of development, it is considered that there would be

no material impact on flooding either on site or elsewhere, in accordance with LP Policy EQ11 and relevant paragraphs under Chapter 14 of the NPPF.

Design Character and Appearance

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ3 refers to rural development proposals which lie outside of the defined built-up area boundaries and seeks to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness. Policy EQ2, sets out that the Council will seek to protect, enhance and restore the landscape character of the plan area.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, having regard to matters of scale, height, density, layout, appearance and materials.

Paragraph 130 of the NPPF states amongst other things that new developments should add to the overall quality of the area, be visually attractive as a result of good architecture and sympathetic to the surrounding built environment.

The site lies within the open countryside and therefore any development proposals should be handled in a sensitive manner in order to ensure that the intrinsic rural character of the immediate and wider landscape is preserved or enhanced.

The proposal amounts to a linear form of palisade fencing that would stand at a height of 2.4m running parallel with the private access road to Thornsett Industrial Estate, and around an electricity substation that lies at the far eastern end of the site.

Whilst it is acknowledged that the site lies within the open countryside, it is considered that the site sits at the lower end of the sensitivity scale in landscape and visual terms, given the proximity of the large industrial estate, inclusion of a functional unsympathetic sub station and nearby brick Band Room building, with no public footpaths running through or close to the site.

The fencing stands at a height of 2.4m and would be coloured green. Objections have been received from neighbouring properties with regards to the scale and appearance of the fencing, being visually intrusive and harmful to the rural landscape character. It is also submitted that further soft landscaping should be implemented surrounding the substation.

In considering the potential landscape and visual impacts of the proposal, it is necessary to consider the fact that a 2m high fence can be erected not adjoining the highway could be erected under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Having visited the site, it is considered that whilst being situated within the open countryside, it is not particularly sensitive to development of this nature, due to the presence of an unsympathetic electricity sub station, its association with an industrial estate, its immediate relationship with an access track, and lack of public footpaths either within or close to the site. To the north of the track is a bank of mature trees which would shield the fence from the public highway to the north. Glimpsed views of the fence would be possible from the junction with the public highway, however the fence would be set against the backdrop of trees and soft landscaping which would restrict its visual prominence.

When taking account of the above, it is considered that the proposed fencing is of an acceptable height and, by virtue of its chosen green colour, is of an acceptable visual appearance that would not result in any adverse harm to the immediate or wider rural landscape character, in accordance with LP Policies S1, EQ3 and EQ6, and relevant paragraphs under Chapter 12 of the NPPF.

Given that the substation already exists, it is not considered either reasonable or necessary to require the applicant to introduce further soft landscaping around the substation.

Highway Safety

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network and provides suitable off-street parking provision in accordance with guidelines set out under Appendix 1 of the Local Plan.

Paragraph 110 of the NPPF states that in assessing applications for development, it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 goes on to state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The proposal comprises boundary palisade fencing that would not protrude beyond the rear elevation of the adjacent Band Room building to the west. As such, there would be no potential harm regarding exit visibility on to High Hill Road, nor would there be any impacts on users of the private access road to the Industrial Estate.

As such, and in light of the fact that there has been no objections raised by the Highways Authority, it is considered that the proposed fencing would not result in any adverse harm to highway safety, in accordance with LP Policy CF6 and paragraph 110 of the NPPF.

Other Matters

Objections have been received from occupiers of neighbouring properties with regards to the lack of justification for the increase in the height of the proposed fencing compared to the existing post and wire fence. In response to this, it is

considered both reasonable and appropriate for the owner of the land to want to improve the security of the site, in light of cases of trespass. If the height of the existing fence was replicated, it is considered that this could easily be navigated if required. As stated above, there is a permitted development fall-back position which would allow the applicant to introduce a 2m height fence without planning permission.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development set out within the National Planning Policy Framework (NPPF).

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks permission for a section of palisade fencing standing at a height of 2.4m coloured green, to replace existing dilapidated post and wire fencing associated with a parcel of land west of the Thornsett Industrial Estate that includes a substation, and to the east of the single storey Thornsett Band Club building.

An assessment of the application, taking into account of material considerations, including objections from nearby residents, has concluded that subject to a precautionary condition relating to the protection of trees, the application complies with all relevant local development plan policies, and relevant NPPF paragraphs, and as such, constitutes a sustainable form of development.

In line with LP Policy S1a and paragraph 11 of the NPPF, the application is recommended for approval subject to appropriate conditions.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 4th April 2023

X *J. Colley*

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council