

DELEGATED DECISION REPORT

HPK/2022/0468
Valid 17/10/2022

GAS WORKS SITE
HORWICH END NEW ROAD
WHALEY BRIDGE

NEW COMMERCIAL
DEVELOPMENT COMPRISING
TWO NEW BUILDINGS AND
ASSOCIATED CAR PARKING.

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Flood Risk
- Impacts on Heritage Assets
- Design, Character and Appearance
- Public and Residential Amenity
- Parking Provision and Highway Safety

DESCRIPTION OF SITE

The application relates to a parcel of land that was formerly home to a 'Gas Works' site that has stood vacant since this was decommissioned, which is understood to have taken place in the early 1970's. The site is characterised by areas of hard standing, with a small watercourse named Randal Carr Brook running through the site from east to west.

The site benefits from an existing access from New Road, which is not classified or indeed adopted, is relatively narrow, bounded by dry stone walls on either side, and serves a number of two storey residential properties that adjoin this highway on its southern side in an elevated position. New Road has a junction with the A5004 Buxton Road a short distance to the west, and Elnor Lane, approximately 400m to the east.

The access is shared with various light industrial units, which includes a former (vacant) builders yard, a dressmaker, gas compound, joiners, engineering firm, and wheel repair shop. The access extends into the site, crossing the watercourse providing access to the northern part of the site.

The site lies within the built-up area boundary of Whaley Bridge and within Flood Zone 2 and partially within Flood Zone 3. The site lies outside but adjacent to the isolated parcel of the Whaley Bridge Conservation Area that contains properties adjacent to New Road heading westwards to Buxton Road.

PROPOSAL

The application seeks full planning permission for development described as “*new commercial buildings comprising 2no. new buildings and associated car parking*”. Following a lengthy consultation period, and the submission of additional technical information, the application is made up of the following plans and documentation that is subject to assessment within this report:

Plans

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|---------------------------------------|--------------|
| - Location Plan | (Ref: PL01) |
| - Unit No.1 Floor and Elevation Plans | (Ref: PL03) |
| - Unit No.2 Floor and Elevation Plans | (Ref: PL04) |
| - Site Sections | (Ref: PL05A) |
| - Proposed Site Plan | (Ref: PL06) |

Documents

- Planning Statement
- Flood Risk Assessment Rev B
- Heritage Statement
- Coal Mining Risk Assessment
- Transport Statement
- Cumulative Trip Generation Analysis
- Site Investigation Letter (dated 1990)
- Environmental Desk Study (dated 2000)
- Environmental Assessment (dated 2001)
- Factual Report on Surface Soil Sampling Works (dated 2014)
- Site Information (dated 2015)
- Project Works Information (dated 2015)
- Outline Remediation Strategy (dated 2015)
- Interpretive Site Investigation Report (dated 2015)

The Proposed Site Layout shows the 2no. Units to both have a simple rectangular form with dual pitched roof, with the larger of the two (Unit No.1) containing 5 x individual units spanning a length of approximately 30m and a depth of 9m reaching an eaves height of 5.4m and overall ridge height of 6.5m. Each unit has a floor area of 54sqm served by a small entrance door and larger roller shutter door, with a small area within allocated for a WC. Unit No.1 is served by 10.no parking spaces

The smaller of the two (Unit No.2) is situated on the other side of the Randall Carr watercourse, contains 3 x individual units, spanning a length of approximately 18.7m and depth of 14m. Unit 2 has a higher eaves height of 6m and overall ridge height of 7.4m. Each unit has a floor area of 84sqm served by a small entrance door and larger roller shutter door, with a small area within allocated for a WC. Unit No.2 is served by 15no. parking spaces.

Both units are shown to be constructed from composite cladding and portal frames, with a colour to be agreed, with grey roller shutter doors defining the principal elevation of each Unit.

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
- S2 Settlement Hierarchy
- S4 Maintaining and Enhancing an Economic Base
- S6 Central Sub-area Strategy
- EQ6 Design and Place Making
- EQ7 Built and Historic Environment
- EQ10 Pollution and Unstable Land
- EQ11 Flood Risk Management
- E1 New Employment Development
- CF6 Accessibility and Transport

National Planning Policy Framework 2021

Achieving Sustainable Development	Chapter 2
Building a Strong Competitive Economy	Chapter 6
Promoting Sustainable Transport	Chapter 9
Making Effective Use of Land	Chapter 11
Achieving Well Designed Places	Chapter 12
Meeting the Challenge of Climate Change and Flooding	Chapter 14
Conserving and Enhancing the Natural Environment	Chapter 15
Conserving and Enhancing the Historic Environment	Chapter 16

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2014/0657	Proposed excavation of a small below ground tank and subsequent infilling (Withdrawn 13/03/2015)
HPK/2018/0381	Residential Development for 9no. dwellings (Refused 04/08/2020)
HPK/2021/0601	New commercial development comprising two new buildings and associated car parking (Refused 16/12/2021)

CONSULTATIONS

Publicity

Site Notice expiry date:

Neighbour consultation period ends: 7th December 2022

Press Advert: N/A

Public Comments

4no. neutral comments have been received in connection with this application, the contents of which are summarised as follows:

- Important re-development of the site
- Important to record any archaeological assets/remains
- Concerns over increase in traffic volume on New Road
- Concerns over highway safety as a result of increased traffic

Whaley Bridge Town Council Comments

Support the principle of development and awaits conclusions of Transport Assessment

Environmental Health

No objections subject to conditions

Coal Authority

No objections subject to conditions

HPBC Conservation Officer

No comments received at time of writing

DCC Archaeology

No objections

Health and Safety Executive

No objections

DCC Flood Risk

No comments to make – advised consulting Environment Agency

Environment Agency

No objections subject to conditions

United Utilities

No objections subject to conditions

DCC Highways Authority

No objections subject to conditions

OFFICER COMMENTS

Principle of Development

The application seeks full planning permission for 2no. Industrial Units for commercial purposes on a site that lies within the built-up area boundary of Whaley Bridge, one of the larger Market Towns that sit at the top of the settlement hierarchy under Local Plan (LP) Policy S2 which are the focus for housing and economic growth.

LP Policy S4 is the economic strategy for the Borough which sets out the provision of new development under the (former) B1, B2 and B8 Uses and where these will be delivered throughout the plan period. The policy makes provision for 45 hectares of new economic land throughout the plan period.

LP Policy E1 relates specifically to New Employment Land and actively supports new business and industrial developments in sustainable locations that contribute towards the creation and retention of a wide range of jobs. One of the ways in which this will be achieved is by supporting new employment development on unallocated site within the built-up area boundary where it would not create undue harm to the character appearance or amenity of the area.

Chapter 6 of the NPPF contains national planning policies that are designed to promote and build a strong competitive economy. Paragraph 81 states that policies and decisions should help create conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth.

The proposed development strongly supports the aims and objectives of LP Policies S4 and E1, and relevant policies under Chapter 6 of the NPPF. The general principle of new industrial/commercial development in this location is therefore supported.

The site is however located within Flood Zone 2 and partially within Flood Zone 3 and as such the application is subject to LP Policy EQ11 and relevant restrictive policies contained under Chapter 14 of the NPPF. The application must demonstrate compliance with such policies in order to be supported.

In addition, the site lies within close proximity to the Whaley Bridge Conservation Area, and as such there is a duty to consider any potential impacts on the setting of this heritage asset, having regard to LP Policy EQ7, and relevant restrictive paragraphs under Chapter 16 of the NPPF, underpinned by Section 72(1) of the Act 1990.

The principle of development is thus acceptable subject to compliance with relevant policies relating to flood risk and heritage conservation, notwithstanding a detailed assessment of all other relevant planning considerations.

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 planning policies that are in place in order to meet the challenge of climate change and reduce flood risk.

The site lies within Flood Zone 2 and partially within Flood Zone 3, and as such the application has been supported by a Flood Risk Assessment (Ref: 764-Rev B). The detailed comments received from the Environment Agency confirms that subject to appropriate conditions, and strict accordance with the Flood Risk Assessment and mitigation measures therein, there are no objections to the development.

In light of these comments from the relevant statutory consultee and subject to appropriate conditions, it is accepted that matters of Flood Risk have been satisfactorily addressed in accordance with LP Policy EQ11 and relevant restrictive policies contained under Chapter 14 of the NPPF.

Impacts on Heritage Assets

Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area

LP Policy EQ7 has regard to the Built and Historic Environment. It states that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment.

Chapter 16 of the NPPF contains relevant policies relating to heritage conservation. Paragraphs 199-202 set out how a local planning authority should assess the significance of a heritage asset and the potential impact of a development proposal upon that asset. Where a proposal will lead to substantial harm or total loss of a designated heritage asset, local planning authorities should refuse consent unless there are substantial public benefits that outweigh that harm. Where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits.

Paragraph 205 states that local authorities should require developers to record and advance understanding of the significance of a heritage assets to be lost in a manner proportionate to its significance.

The application lies within close proximity to the most southerly separate parcel of the Whaley Bridge Conservation Area and therefore consideration has to be given to the impact of the development proposal upon the setting of this heritage asset.

Whilst no comments have been received from the Conservation Officer, the site has a predominantly industrial brownfield nature, and has a relatively low landscape and visual sensitivity, and that having regard to the site section drawings, the proposed units would sit a considerable distance below the level of both New Road and finished floor levels of the traditional stone properties within the Conservation Area.

Due to the characteristics of the site, and the subordinate and subservient relationship in terms of scale and height between the proposed industrial units and the properties that lie within the Conservation Area, thereby respecting the dominance and prominence of these traditional attractive properties, it is considered that the proposed development would preserve the character and appearance of the Whaley Bridge Conservation Area.

Turning to matters of Archaeology, the application has been reviewed by the County Archaeologist who confirms that the site is within the Derbyshire Historic Environment Record, which is the former site of the Whaley Bridge Goods Yard, Shallcross Sidings and Shallcross Gas Works, associated with the former Cromford and High Peak Railway at Shallcross.

It has been confirmed that the Heritage Statement is comprehensive and establishes that the sites association with the Cromford and High Peak Railway lie to the east, outside of the site (red edge) boundary. The County's Archaeologist confirms that the only likely remains within the site are remains of the early 20th Century Horwich End Gas Works, which would be of only very minor interest.

In light of the above, it is considered that the proposed development would preserve all heritage assets that relate to the site and the wider area, in accordance with LP Policy EQ7 and relevant restrictive policies relating to heritage conservation contained under Chapter 16 of the NPPF, underpinned by Section 72(1) of the Act 1990.

Design Character and Appearance

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 decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

The existing site is a previously developed site that comprises two main separate areas of hard standing, supplemented by occasional light scrub, that is closely related with other light industrial uses and is situated within the built-up area

boundary having a very strong urban character. The landscape and visual sensitivity of the site is considered to be relatively low, although it is acknowledged that attractive traditional stone properties are within proximity of the site that lies within the Whaley Bridge Conservation Area.

The design of the proposed industrial units are typical for this type of building, and have a functional and pragmatic appearance. Subject to appropriate conditions that secure the schedule of materials most notably including colour, the appearance of the buildings are considered to be acceptable.

With regards to their scale height and massing, and relationship with neighbouring properties and the surrounding street scene, the Section Drawing is extremely helpful in showing the lower finished ground floor level of Unit 1 and Unit 2 (170.0) which sits some 2.5m below the level of New Road, and some 3.4m below the finished floor level of the properties that lies to the west of the public highway.

As a result of these significant changes in topography, the ridge height of Unit No.1 which lies adjacent to the western boundary, would extend approximately 4m above the level of New Road, with the ridge height of this building being approximately level with the height of the ground floor windows contained within these neighbouring properties.

It is considered that when taking account of the specific characteristics of the site, the intended use of the building, and strong spatial and visual relationship between both Industrial Units and neighbouring light industrial uses, the layout, design and appearance of the proposed development is appropriate. Conditions are recommended in the form of a materials schedule and landscaping scheme in the interests of ensuring that the finished development is of a high quality design.

Subject to such conditions, it is considered that the application complies with LP Policies S1 and EQ6, and relevant paragraphs contained under Chapter 12 of the NPPF.

Public and Residential Amenity

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings and protects the amenity of the area, which includes residential amenity of neighbouring properties. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

The High Peak Residential Design Guide SPD requires extensions to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and the change in land levels.

Paragraph 130 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Chapter 15 of the NPPF contains relevant policies that relate to the conservation and enhancement of the natural environment. Paragraph 183 states that policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination, which includes risks from natural hazards or former activities such as mining, and proposals for mitigation including land remediation.

Paragraph 185 states that policies and decisions should ensure the new development is appropriate for its location taking into account the likely effects of pollution and health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise.

The application site has a long industrial history being associated with a railway and former Gas Works being closely associated with former and current light industrial uses. The site also lies within a high risk area of Coal Mining. As such, the potential for land contamination and risks associated with mining are extremely high.

Both the Environment Agency and the Council's Environmental Health Officer have recommended detailed conditions relating to contamination and remediation, having regard to paragraph 185 of the NPPF. Subject to these pre-commencement conditions, it is considered that the impacts of land contamination land stability and other natural hazards can be mitigated appropriately.

The site lies within the proximity of nearby residential properties on New Road, with the rear elevation of Unit 1 being located some 15m from the principal elevations of such properties. Due to the changes in topography, as shown by the Section Drawings, it is considered that there would not be any overbearing or oppressive impacts on these properties arising from the siting of Unit 1. The visual amenity would not be adversely affected, given that the eyeline of occupiers from these ground floor windows would be approximately level with the ridge line of this unit.

Turning to noise and disturbance, Officers recommend that a condition be applied that restricts the unit of each industrial unit to those that first solely fall within the recently formed Class E sub paragraph (g), which contains three categories: (i) an office to carry out any operational or administrative functions, (ii) the research and development of products or processes, or (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. This condition will ensure that no heavy industrial use can lawfully take place on site.

Furthermore, in line with recommendations from the Environmental Health Officer, additional compliance conditions relating to the hours of construction, hours of operation and maximum noise levels operating from the site are recommended and

will ensure that amenity of the general public and neighbouring residential properties will be satisfactorily preserved.

In light of the above, it is concluded that subject to appropriate conditions, the proposed development will preserve the amenity of the general public and neighbouring residential properties, in accordance with LP Policies EQ6 and EQ10 and relevant paragraphs contained under Chapter 15 of the NPPF.

Parking Provision and 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 site benefits from an existing access on to New Road, which is unadopted, narrow, and serves a number of properties which do not benefit from any off-street parking provision. As a consequence New Road serves as on-street parking for these neighbouring residents.

At the request of Officers, who had initial concerns relating to the potential intensification of the site, and its potential impact on the wider highway network the applicant has submitted a comprehensive Transport Statement, supported by an analysis of cumulative vehicle movements that utilise the existing access.

In assessing the potential highway safety impacts, the Highway Authority originally requested a condition that required upgrade improvements to the unadopted New Road near to the junction with Buxton Road, although the details of such improvements were not specified.

In order for this condition to be enforceable, the whole of New Road from the access to the site up to the junction with Buxton Road would be required to be included within the site boundary, defined by the red edge on the Location Plan, with appropriate publication and consultation being required as a result.

In order to make the application acceptable and secure the necessary improvement works, Officers asked the applicant to submit a revised Location Plan and serve notice by way of a Press Advert, in line with the General Management Procedure Order. However, the applicant has challenged and strongly resisted this request, refusing to do so, and as such, Officers have sought clarification from the Highways

Officers as to whether this condition requiring highway improvement works is necessary to make the application acceptable in highway safety terms.

When pressed for clarification, the Highways Authority have confirmed that such works are desirable and that the absence of this condition would not make the highway safety impacts unacceptable and warrant a reason for refusal.

Notwithstanding the fact that Officers share the concerns of local residents regarding the overall intensification of the site, the resultant increase in vehicle movements and its impacts on the immediate highway network, including New Road, the absence of any objections from the Highways Authority means that Officers have no grounds for refusal that could be sustained at appeal.

The level of parking provision associated with both units is compliant with parking standards set out within Appendix 1 of the Local Plan, although it is acknowledged that these refer to the now redundant B2 Use which has been replaced by Class E.

Officers have some reservations regarding the layout of some parking spaces associated with Unit 1, particularly those that sit directly in front of the building and one space that sits parallel with other spaces, which could give rise to awkward turning and manoeuvring.

Given the fact that the applicant has made clear that no further time extensions will be given, which does not leave sufficient time to seek clarification from the Highways Authority on the specific parking layout associated with both units, an additional condition is recommended that seeks a revised Site Layout including Parking Layout to be submitted and agreed in writing prior to any works above foundation level taking place.

Subject to the above conditions, and the three conditions that are contained within the latest comments from the Highways Authority, there are not considered, despite sustained and continued concerns, to be any reasons for refusal relating to highway safety that could reasonably be sustained in the event that the application was the subject of an appeal.

It is therefore concluded on balance that there is no conflict with LP Policy CF6 and relevant paragraphs contained under Chapter 9 of the NPPF.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development set out within the National Planning Policy Framework (NPPF). It states that planning applications that accord with relevant policies in the Local Plan will be approved without delay.

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 full planning permission for 2no. Industrial Units on a previously developed (brownfield) land known as the former Gas Works, within the built-up area boundary of Whaley Bridge.

The general principle of the development with regards to its strategic location is therefore supported, although in order to be fully supported in principle, the application must demonstrate compliance with relevant local plan and restrictive national policies relating to flood risk and heritage.

A detailed assessment of the application has found that, in light of the submission of a Flood Risk Assessment, and comments provided by the Environment Agency, potential impacts on flooding can be mitigated subject to appropriate conditions.

Having regard to the Heritage Statement, and comments provided by the County Archaeologist, it has been found that the setting of Whaley Bridge Conservation Area would be preserved and that owing to the more sensitive area in archaeological terms being located outside of the red edge, there is no requirement for any conditions in this regard.

An assessment of the application has concluded that subject to an extensive list of conditions (some of which will be pre-commencement, which has the written agreement of the applicant, and some of which will be compliant) matters relating to Design, Amenity and Highway Safety can be adequately addressed.

In conclusion, the application has been found to comply with all relevant local development plan policies and other material considerations which includes relevant policies contained within the NPPF, and thus 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 appropriately worded conditions which are both reasonable and necessary to make the application acceptable in planning policy terms.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 26th April 2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council