
From: Paul.Jeffrey

Sent: 24/08/2022 14:28:33

To: ben.hayward; tom.hiles

Cc:

Subject: Buxton Road Chinley Planning Approval refs - Outline HPK/2016/0692 dated 07/11/17, Reserved Matters HPK/ 2020/0261 dated 22/12/20

Project: 19-039

Description: Buxton Road, Chinley, High Peak

Locaton: Buxton Road, Chinley, High Peak

Client: Johnnie Johnson Housing Trust

REFERENCE EML-OUT/19-039/20220824-140521-855

Good afternoon Ben and Tom

I write further to Johnnie Johnsons email and Urban Constructions letter on the above project,(Buxton Road Chinley HPK/ 2016/0692 and HPK/2020/0261) both dated 17/08/22. I would be grateful if you would consider the following in addition to the points raised in the aforementioned correspondence:-

Outline approval for up to 25 dwellings on the site was received in November 2017, thus establishing the principle of housing and associated hard surfacing on what was a previously undeveloped site. Within that approval, condition 25 required a “detailed scheme of ecological mitigation, compensation and enhancement including on site mitigation and/ or for off site offsetting, including identification of any receptor sites and arrangements to secure the delivery of any offsetting measures and or compensation agreements with the Environment bank for the minimum agreed credits.” The reason for the condition was given as mitigating against the loss of existing biodiversity and nature habitats in accordance with Policy EQ5 and para 17 and section 11 of the National Planning Policy framework.

Policy EQ5 states that opportunities for biodiversity will be sought and within Para 5.34 of that policy text it refers to minimising impacts and providing net gains *where possible*. No Habitat Regulations Assessment was deemed necessary at the time of the application. The site is not in greenbelt, a conservation area, an International, European or nationally important landscape setting, nor is it in an SSSI, nor is at a regionally or locally designated site. The policy also refers to “encouraging development to include measures to contribute positively to overall biodiversity” No specific targets are identified within policy EQ5. The NPPF applicable at the time of the approval and when the condition was drafted was the original March 2012 version. Assuming the condition should be measured against this version, namely and within Para 7 and section 11 it refers to minimising impacts on biodiversity and providing net gains *where possible*.

Johnnie Johnson Housing bought the site to develop a 100% affordable housing scheme. Since purchase we have submitted and obtained reserved matters approval (Dec 2020) and worked through all planning conditions including those applicable to both the outline and reserved matters. The ecological mitigation scheme condition is attached to the outline, and is the only pre start condition outstanding. There is no reference to biodiversity net gains within the reserved matters conditions. Having referred to the above referenced policies, JJHT submitted a landscaping and mitigation scheme in connection with condition 25. No level of required credits was stated as part of the condition, so the proposal was based on what could be reasonably accommodated on the site given the established principle of it being developed for housing by way of the planning approval, realised in 2017. Since submission of the information to discharge condition 25, we have reached a sticking point in that it would appear that the condition is being assessed against criteria more akin with the Biodiversity Net Gain regulations that came into force in Nov 2021, some four years after the original permission and condition was drafted. A rigid credit requirement is now what the site seems to be being assessed against, when this was never mentioned as part of the original condition.

Whilst our Clients ,JJHT and Urban Construction are keen to work with High Peak in realising mitigation and biodiversity net gains as much as possible on the site, the latest discussions currently have reached an impasse, with no available off site opportunities identified in the local area, and financial contributions of up to £120,000 talked about. Quite clearly a financial contribution of that amount, on what is a 100% affordable housing scheme will not be possible on viability grounds. In any event the very latest position is that High Peak have stated that even if JJHT could afford the contribution it wouldn't be taken as there are no opportunities to spend the money. Without some degree of reasonableness being applied the applicant could be left with a site that is undevelopable, having received planning and reserved matters approval. Not only

that, High Peak will have lost the opportunity for 25 new affordable homes for local people, even though I believe given the wording and timing of the relevant condition there is scope for maximising mitigation and biodiversity on the site, in a reasonable manner and by agreement, without setting unwanted precedent.

I therefore would be grateful if you could intervene and provide assistance in resolving this matter, in a reasonable manner and timescale, given that as each week goes by, increased material costs threaten the viability of this much needed affordable housing.

Can I stress in closing that the applicant is not trying to avoid in any way their planning obligations and will seek to maximise biodiversity as far as reasonably possible given the constraints of the site and permissions given, but this needs to be in accordance with the intentions and wording of the condition at the time of issue, and in a way that facilitates the realisation of this “affordable” development and doesn’t make it completely unviable.

I do hope you will be able to assist in what is a most urgent matter.

Kind regards

Paul Jeffrey
Director

For and on Behalf of

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