
From:
Sent: 30 June 2023 12:41
To: Planning Comments (HPBC)
Subject: Comment Received from Public Access

Categories:

Application Reference No. : HPK/2023/0192 Site Address: Land at Hogshaw Fairfield Buxton Derbyshire Comments by: John Peysner

From:
21 Hogshaw Villas Road

Buxton

SK17 7AR

Phone:

Email:

Submission: Objection

Comments: Planning Department

High Peak Borough Council,

Town Hall,

Market Place,

Buxton,

Derbyshire

SK17 6EL

Objection to Planning Application Ref: HPK/2023/0192

I am writing to formally object to the proposed planning application by Barrat Homes to build 116 new homes at High Peak Farm. (2023/0192).

1. The application and its accompanying reports focuses on the danger of flooding to the development site and makes only passing reference to the danger that the site poses to its environs. From the developer's point of view this is understandable as the site is on top of a hill and water flows downhill, in this case into the Nun Brook. The developer in the report of JPP Consulting (attached to the application: dated May 2023) at 4.2.5.1 specifically relies on the Nun Brook as the only drain from the site and rejects a surface water sewer. The downstream residents in the Lightwood Road area do not appear on the list of persons consulted by the Planning Authority.

2. The area downstream consists of environmentally useful woods and plants and dense housing, in the Lightwood road area, which has, in the past, experienced catastrophic flooding in 1973 and 1998. In 2019 a flash flood affected riverine properties alongside Hogshaw Brook. The 2019 flooding is discussed at length in a report by Derbyshire County Council (Investigative report into the flooding at Lightwood Road, Buxton on the 31st of July 2019: 2020).

3. Flooding is widely recognised as an increasing risk to inland communities in the light of climate change. Indeed, the JPP report (see above) at 7.6, adopting National, Regional and Local planning policy, states:

“Development should not be permitted if it would be at an unacceptable risk of flooding
or create an unacceptable risk elsewhere..”

This is in accordance with the United Nations Framework Convention on Climate Change (1992):

Noting that there are many uncertainties in predictions of climate change, particularly with regard to the timing, magnitude and regional patterns thereof, (from the heading).

4. The “Review of policy for development in areas at flood risk” by the Ministry of Housing, Communities and Local Government and the Department for Environment, Food and Rural Affairs (July 2021) states:

4.4 Development in inappropriate locations. It is important that likely future extents of functional floodplain are understood and consistently mapped to show future likely extents due to the impacts of climate change, and that development in such areas is appropriately controlled. Environment agency modelling forms the starting point for the mapping of the functional floodplain in most instances. Local planning authorities should identify areas of functional floodplain in their Strategic Flood Risk Assessments in discussion with the Environment Agency and the Lead Local Flood Authority. The identification of functional floodplain should take account of local circumstances. The changes clarify that in ensuring that development is appropriately flood resistant and resilient that it can be demonstrated that, in the event of a flood, it could be quickly brought back into use without significant refurbishment (Authors Edits)

5. Effect on Downstream Area

The downstream area is part of Corbar ward which has a relatively high population density at 449 per square Km (compare 38.81 per sq Km for Burbage ward) (SOURCE: City Population Internet Site). Crucially, the wooded area acts as an amenity for the densely populated, congested and deprived Fairfield Road (A6) area. The woods themselves have “rewilded” over decades to form a valuable resource. The Government accepted in its

Environmental Principles Policy Statement (January 2023) that the precautionary principle should apply to decisions on the environment:

The precautionary principle assists the decision-making process in the face of a lack of scientific certainty. The principle helps policymakers deal with risks which may not be precisely calculable in advance. The UK government's risk-based, or science-based, approach to the precautionary principle seeks to manage the likelihood and severity of environmental harm occurring based on exposure to a specific hazard. This is distinct from an approach that solely considers hazards that can cause environmental harm.

Faced with the increasing uncertainty of the future climate and precipitation it is reasonable that the Planning Authority should err on the side of caution in adopting developer's views of the likelihood of spill-over damage from new developments.

6. Proposals

a) The 2020 report into the Lightwood flood states at page 16 (Conclusions) that 'The lead Local Flood Authority will continue to work with all of the Risk Management Authorities to try to reduce the flood risk to properties and infrastructure, along with trying to ensure that the community is even more resilient and prepared, should there be further events of this nature in future years'.

This conclusion should be adopted by the Planning Authority and extended to include other stakeholders e.g. local residents, environmental groups and businesses in joint discussions and investigations into the flood risk from this site before moving to a decision. This could, for example, include a further risk report from a jointly agreed expert body to consider the developer's proposal and associated flood risk report in a wider context.

b) Unfortunately, the local MP, Mr.R.Largan, in a recent but undated letter to local residents stated that the public consultation period ran until the 23rd of May 2024 when in fact it ends on the 14th of July 2023. This apparent error has been brought to the attention of the MP by email but no substantive reply has been received. Information from such an authoritative source may have lulled potential objectors into delay their objections so they may run out of time. Good governance suggests that the Planning Authority should extend the consultation period. It is also arguable that when, apparently, incorrect or out of date information on procedure is circulated by such an authoritative source and then brought to the attention of the public authority a legitimate expectation, in judicial review terms, predicates that the authority should take reasonable steps to ensure that no actual or potentially affected person is adversely impacted.

Professor John Peysner (Emeritus). University of Lincoln Law School

21 Hogshaw Villas Road, Buxton, SK17 7AR

Do you really need to print out this Email? Be green - keep it on the screen.

This email is intended for the addressee(s) only and may contain sensitive, privileged or confidential information that could be protectively marked. If you are not the addressee please do not use the information in any way. If you have received this email in error please notify the sender immediately and delete it from your system. Thank you.

The Council may be required to disclose this email or any responses to it under the Freedom of Information Act 2000. The way in which we handle personal information is set out in our privacy notice and is available at <https://www.highpeak.gov.uk/YourData>
