
From:
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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: Friends of Hogshaw Friends of Hogshaw
From:

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Submission: Objection

Comments: Friends of Hogshaw (FoH) represent 50+ local residents. We wish to register our objection to the proposed planning application by Barratt Homes for 116 homes on the Hogshaw site.

Context:

● Flood Risk Increasing: Nationally, it is recognised by the Government that the risk of flooding is going to increase over the coming decades as a result of Climate Change. The Climate Change Committee is concerned that too much housing is being allocated to areas with significant flood risk.

● Predicted doubling of UK citizens living in flood risk areas: Approx 1.9 m people across the UK are currently living in areas at significant flood risk. This number is predicted to double, as early as 2050s (UK Climate Change Risk Assessment Housing Briefing 2021).

● Growing costs of flood damage: currently in the region of £1.3 billion each year but set to rise. (Energy & Climate Intelligence Unit, Flood Risk in the UK, 11/2/22)

● ¿The parts of the country that face greatest risk of flooding damage in the future are those that face the greatest risk today¿. The New Scientist 7/3/23

● High Peak Borough Council: issued a Climate Change Emergency Statement on 15/10/19 recognising Climate Change as an existential threat, commenting:

¿Natural habitats, wildlife and biodiversity are in peril not only from climate change but also from human intervention, which in turn is increasing the effects of the climate and biodiversity crisis¿.

The council pledged to:

- Work to mitigate the biodiversity crisis in its actions.
- Ensure that all council committees and scrutiny panels consider the impact on climate change and the natural environment when taking decisions¿

The accompanying Action Plan recognised the need to 'prepare for the impact of Climate Change and increase local resilience in both the natural and the built environment'

In the context of the above, the Planning system has a major role in making decisions crucial to reducing the risk of flooding both now and in the future. Government Guidance states that Local Authorities are required to adapt to climate change:

'Development plan documents must include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change' (Ref: Planning & Compulsory Purchase Act 2004 section 19 (1A))

Given this context, FoH wish to object to the proposed planning application on the basis that it is:

'Incompatible with the National Planning Policy Framework and the updated planning guidance of 25/8/22 from which we quote extensively to substantiate our objections

'Incompatible with HPBC's own commitment to address the very real threats posed by Climate Change

'Does not sit easily with other Council concerns and actions around air and water quality.

'Poses a very real threat of increasing flood risk to 70+ existing properties which fall within a zone 3 flood risk area.

FoH concerns in greater detail. (All quotes from Gov Uk)

'The National Planning Policy Framework sets out strict tests to protect people

and property from flooding which all local planning authorities are expected to follow. Where these tests are not met, new development should not be allowed.

'The steps (in considering a planning application) are designed to ensure that if there are lower risk sites available OR a proposed development cannot be made safe throughout its lifetime, without increasing flood risk elsewhere, it should NOT be permitted.'

FOH Comments: The proposed development is uphill / upstream of flood risk area zone 3, affecting many homes in the lower Lightwood Road area, Ash Terrace, Lightwood Avenue, Hogshaw Villas, Brooklands, Charles Street, Holmwood Terrace, Hogshaw Avenue.

The impact on those in zone 3 who have experienced flooding events in 1975, 1998, and 2019, must be considered.

“Where an assessment shows that flood risk is a consideration, the Planning Guidance advised is to AVOID new development. Avoiding flood risk through the sequential test is the most effective way of addressing flood risk”

“Will the proposed development be safe for its lifetime?”

FoH comment: The need to factor in the cost of maintaining defences in this flood zone, in the future, which will be exacerbated by this development, coupled with the predicted increase of flooding caused by climate change, means that the Council / EA / DCC need to ensure / reassure and guarantee that the existing culvert / drains are sufficient to cope with the inevitable increased pressure, whilst also being required to take into account increased pressures anticipated from climate change. The addition of allowances for climate change in the flood risk assessment help minimise vulnerability and provide resilience to flooding, but will also increase costs. Will the Developer be expected to contribute to these costs?

“A Strategic flood Risk Assessment is required to assess the risk to an area, now and in the future, taking account of the impact of climate change, and to assess the cumulative impact that land use change and development in the area on flood risk”

“The National Planning Policy Framework is clear that flood risk should not be increased elsewhere, including over the lifetime of the permission, not just at the point of the permission”. Para 005.

“The Sequential Test & the Local Plan: The sequential test needs to be applied to development proposals in areas at risk of flooding. We note that in certain circumstances, Planning does not need to apply the sequential test if the site has been allocated for development and subject to the test at the plan making stage (provided there has been no significant change to the known level of flood risk to the site, now or in the future which would have affected the outcome of the test).”

FOH comment: In this case, we believe the sequential test does need to be applied.

We are concerned that the Council failed to retain any historical knowledge of flood events in the Lightwood Rd area prior to 2019. As the Local Plan was adopted in 2016, is it possible that the historical flooding events were not considered when putting the Hogshaw site in the Local Plan?

Quote from the DCC report “Buxton Flood Investigation Report 2019”

¶ The Council hold a suite of data relating to flooding for Derbyshire obtained from various sources. Prior to the events of the 31st July 2019, the Council had received no historical flood information in the vicinity of Lightwood Road.

¶ Despite the Council not holding historical flood information, we have obtained pictures indicating past flooding events in 1975 and in 1998 on Lightwood Road, which clearly show that on both occasions properties and businesses experienced internal flooding.

We are concerned that HPBC appears to have overlooked these major flood events. In the 1998 event, cars were floating in the road; The Advertiser carried front page pictures and The Fire Service was involved in pumping out houses; an elderly resident had to be taken into care (never to return to her home due to damage); homes had to be abandoned as electricity supplies were cut off. The 1975 & the 1998 floods impacted a large number of households (70+). We find it incomprehensible that the Borough have no records of this and we are therefore concerned that HPBC under-estimated the inherent in the development of Hogshaw when designating it fit for development.

Given that a development ‘must not increase flood risk elsewhere’ and this one will impact a high risk zone, it seems clear that alternative sites should be identified.

Where Planners may argue that there are really no other sites available and the benefits of this proposed development outweigh the risks, then the Council also needs to satisfy two additional elements of the Exception Test before allowing development to be permitted in areas of high flood risk. We note the requirement that ‘The Exception Test is not a tool to justify development in flood risk areas’.

To meet the Exception Test, it should be demonstrated that:

The development will provide sustainability benefits to the community that outweigh the flood risks.

Examples given in the Guidance are:

- The re-use of brownfield sites. FoH comment: Hogshaw is a greenfield site. This is not something we expect to see given HPBC’s current recruitment advertisement for a Biodiversity Officer, ‘to lead the Council’s response to the Nature Crisis and ensure that the Councils comply with its statutory duties in relation to biodiversity & to help conserve & enhance the biodiversity heritage of the district’ (HPBC website, June 23).
- An overall reduction in flood risk to the wider community through the provision of, or financial contribution to, flood risk management infrastructure. FoH comment: We believe that Barratt’s are unlikely to make this sort of commitment to protect the interests of those most impacted by the development. It is incumbent on HPBC to ensure that this test is met.
- The provision of multifunction Sustainable Drainage Systems that integrate with green infrastructure, significantly exceeding National Planning Policy Framework policy requirements for Sustainable Drainage Systems. FoH comment: We expect SUDs to be inherent in the application, along with robust mitigation measures.

FoH believe that the rights of existing residents in the flood zone outweigh the right of Barratt’s to increase our flood risk.

Where wider sustainability benefits are absent or where they are outweighed by flood risk, the Exception Test has not been satisfied and planning permission should be refused (para 036).

In short, we believe that this proposed development will increase flood risk - not for residents of the new development - but to their existing neighbours living in flood zone 3. We note the requirement that 'The development will be safe for its lifetime.. Without increasing flood risk elsewhere and, where possible, will reduce flood risk overall'.

Other Factors

1. The Local Plan: has now been declared partially out of date, leading to the Council now using the Government standard methodology for determining the annual housing requirement of the Borough as mandated by the National Planning Framework - ie 260 new homes annually (rather than the higher 350) and note that the population growth of the High Peak has remained static (Census 2021) but that the population of Buxton has increased with significant new housing developments adding to this and not yet completed (notably, Foxlow Fields & Dove Holes developments).

'The report to the Executive, (23/6/2022 'Local Plan Review') states that the review of the Local Plan 'presents the Council with an opportunity to align Planning policies more closely with the Council's Climate Change Emergency Declaration'.

'We also note the mandatory requirement for new development to achieve 10% net gain in biodiversity.

2. Nutrient Neutrality - is another concern, we share with HPBC. The requirement that development within the catchment of the Peak District Dales Special Area of Conservation (SAC) (River Wye) must demonstrate nutrient neutrality and - as the report points out - has immediate and longer term implications for the scope of development with this obligation delaying the delivery of new housing land until such time that appropriate mitigation can be implemented, increasing development costs.

We are concerned about the ever increasing pressure on the Buxton Sewage Treatment Works, which has a stated capacity equivalent to a population of 23,000. To quote from the site updated october 22:

'BSTW serves the town of Buxton and the surrounding area. It has a permitted flow to full treatment (FFT) of 195 l/s, a population equivalent of approximately 23,000 and its treating catchment wastewater and sludge imported from local rural works'.

The only figures we can find relating to the population of Buxton and the surrounding area, are those presented in: JSNA Buxton and surrounding area back in April 2013, which 'surrounding area' defined as a 5 mile radius of Buxton and which gave the population as 35,023 in April 2013.

We are concerned about the capacity of Buxton Sewage Treatment Works, and the resulting level of releases of untreated sewage. (Unfortunately, due to inaccuracies re. End of the consultation date on HPBC website, we have not had sufficient time to find out as much as we would have wished regarding this).

● Although we are confident that adherence to the Guidance should result in the application being turned down, we are concerned that the Council may still be minded to approve the application, so we turn our attention to mitigation measures.

Mitigation: Section 106 obligations

We now make the case for ensuring the application of S106 planning obligations should ‘reduce flood risk overall’.

We note that the Guidance addresses mitigation measures only after a flood risk area is avoided and the sequential and exception tests have been applied.

FoH comment: Mitigation Measures outlined in the Application have taken NO account of the impact of the development downstream. We find this very disquieting, since Barratt’s were actively notified of the risk their development would pose, prior to their submitting the application. However, Barratt’s have

- failed to consult with the EA PRIOR to submitting their application
- failed to consult with Residents in the flood zone (Lightwood Road area) choosing to consult only with those at the top of the hill.

This does NOT give Residents confidence in the Developer. We feel, therefore, required to urge HPBC and other authorities (DCC / EA) to place very stringent section 106 obligations on the Developer - to be closely and effectively monitored - should planning permission be granted. We make the following observations:

● Expectation is that mitigation measures are maintained for the life of the development (100 years) and in the face of increased risk posed by climate change.

● There is ongoing debate in legal circles as to who carries liability in the event of flooding as a result of actions or inactions by both Developer and the Local Authority, but in any event, the costs of effective flood risk mitigation is going to be high (but lower than costs incurred in the event of flooding).

● Viability testing: the development will be required to meet certain standards to reduce flood risk, ie the developer should build the properties to a higher standard. Through the viability test, developers can argue that these costs make their schemes ‘unviable’ by reducing their profit margins. However, The National Planning Policy Framework states that developers are not allowed to use the price they paid for the land as an excuse for not meeting required standards. Developers must make their viability tests available for members of the public to see and we, therefore, request that we see this, so that we can see the level of profit against local resident costs.

● The Local Government and Social Care Ombudsman: may be able to intervene in the event of the council,

- not properly considering whether a planning obligation should be required
- Failing to ensure the developer provided the facilities agreed
- Delayed in enforcing a section 106 agreement
- That a S106 agreement was poorly drafted and did not achieve the intended result.

If the Council is found to be at fault and residents have suffered as a result the Ombudsman can recommend the council takes action to put the matter right either by ensuring the developer honours the agreement or if the council cannot do this, the Ombudsman might recommend that the council makes provision instead of the developer doing so.

The FoH accept that, if the development goes ahead, it should aim to reduce flooding overall and to this end we would request HPBC stipulates the following S106 obligations which would assist in providing flood control, create aesthetic landscaping and encourage wildlife and biodiversity.

● Sustainable Drainage Systems (SUDS) installed.

● Permeable paving

● Green roofs

● Rain gardens (bioretention facilities)

● Installation of rainwater collection facilities and grey water recycling.

● Wetlands - An additional wetland strategically located to protect lower areas.

● Additional planting to compensate for the loss of the mature trees

● A commitment not to seek further development on / around Hogshaw

In conclusion: Although we have focused exclusively on planning issues, and flooding, it is important for the Council, associated agencies and the developer, to appreciate the human cost of flooding:

● We do not feel that it is fair or reasonable that new homes are built which jeopardise the mental and financial wellbeing of existing residents of Buxton. We therefore look to our Council to protect - not diminish - the interests of the existing community.

Friends of Hogshaw formally object to the planning application. We request 3 FoH representatives be invited to the Planning Committee meeting considering this application to express our concerns at the point of decision.

DCC

Derbyshire Wildlife Trust

Robert Largan, MP

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