

DELEGATED DECISION REPORT

HPK/2022/0476
Valid 04/01/2023

LAND NORTH OF 25 BINGS
ROAD
WHALEY BRIDGE

PART RETROSPECTIVE
APPLICATION TO ERECT A
SHED AND GREENHOUSE
FOR THE PROPAGATION OF
TREE SAPLINGS AND
PROVIDE A PARKING AREA

(FULL - MINOR)

MAIN ISSUES

- Design, Character and Appearance
- Amenity
- Highway Safety

DESCRIPTION OF SITE

The application relates to a parcel of land north of No.25 Bings Road, Whaley Bridge. The site rises steeply in an easterly direction and benefits from a field gate access on to the public highway at its south-western corner, with an access track extending into the site at an angle to the slope.

The site has previously been subject to previous planning consent for the erection of a wooden shed for the storage of tools, and the erection of a greenhouse, approved in July 2018 under HPK/2018/0074. This application included a condition (Condition 4) that required a plan showing parking provision to be submitted and approved in writing prior to commencement of development.

The applicant applied to vary Condition 2 (approved plans condition) under a S73 application in 2021 under HPK/2021/0191. The Delegated Report that accompanied the decision to approve this variation confirmed that a material start had been made and thus the original permission protected. However, it has come to light via an enforcement complaint and subsequent investigation that the pre-commencement condition was never discharged, and as such, this material start was not lawful, and the 2018 permission has now technically lapsed.

At the time of a site visit, the shed had been constructed, with preparatory works to the greenhouse underway.

PROPOSAL

At the request of the Council, the applicant is applying for part retrospective application for the shed and greenhouse, together with the parking layout as

previously required by Condition 4 relating to HPK/2018/0074 in order to regularise the development on site.

Further to comments received from the Highways Authority, revised plans have been submitted showing a larger turning and manoeuvring area to allow vehicles to exit the site in a forward gear.

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
- 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 |

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

- | | |
|----------------|--|
| HPK/0003/3897 | Proposed animal shelter and hay store (Refused 28/09/1994) |
| HPK/00003/4149 | Proposed animal shelter and hay store (Refused 20/01/1995)

Appeal Dismissed T/APP/H1033/A/95/255007/P8 |
| HPK/2018/0074 | Erection of wooden shed for the storage of tools. Erection of a greenhouse for the cultivation of tree saplings (Approved 11/07/2018) |
| HPK/2020/0517 | Outline Planning Permission with all Matters Reserved for the Erection of 2 no. detached dwellings (Refused 05/02/2021)

Appeal Dismissed APP/H1033/W/21/3270958 |

HPK/2021/0191 Application for removal or variation of a condition 2 following grant of HPK/2018/0074 (Approved 28/07/2021)

CONSULTATIONS

Publicity

Site Notice expiry date: 5th May 2023
Neighbour consultation period ends: 26th January 2023
Press Advert: N/A

Public Comments

4no. objections have been received in connection with the application, the grounds of which are summarised as follows:

- Inconsistencies with plans
- Clarification on location of approved shed comparable to previous consent
- Landscape and visual impacts resulting from parking provision
- Reasons for refusal for residential development apply to this application
- Introduction of parking makes housing development more likely
- Motivations of the applicant remain questionable
- Widening of access detrimental to visual aesthetics of the area
- Access from site to highway will be dangerous
- Concerns relating to start of commercial business

Town / Parish Comments

No comments received at time of writing

Derbyshire County Council Highways

Initial Comments

The proposal seeks the erection of a shed and greenhouse associated with the propagation of tree saplings, and the provision of a area of hardstanding with the site for the parking of 1no. vehicle.

The submitted plans are poor, and in order for the Highway Authority to provide comments it is recommended the applicant provides more detailed and accurate plans (i.e. suitably scaled Block Plan clearly demonstrating the proposed parking area, access track and structures within the site).

Additionally, the existing vehicular access to Bings Road to severely substandard in terms of available emerging visibility and no details have been submitted relating to vehicle movements associated with the site. The Highway Authority recommends the applicant provides revised details outlining vehicle movements associated with the site prior to this current proposal and any expected increase in traffic generated by the proposal.

Accordingly, before making my formal recommendations I would be obliged if you could ask the applicant to submit revised details in view of the above comments and in the meantime, please hold the application in abeyance until revised plans/details have been submitted.

Further Comments

Thanks for the additional plans and information much appreciated.

This Authority is satisfied that the proposal is unlikely to result in any increase in vehicle movements associated with the site. As previously stated available emerging visibility from the vehicular access to Bings Road is severely substandard, whilst it is appreciated Bings Road is a un-classified road, it is recommended the parking arrangement is amended slightly in order to provide adequate space for a vehicle to manoeuvre in order to both enter and exit the site in a forward gear, eliminating the need for a vehicle to reverse onto Bings Road at a point where emerging visibility is poor.

Accordingly, provided that you are satisfied that a satisfactory layout can be controlled by condition, there are no highway objections to the proposal from the highway point of view, subject to the following condition being included in any consent granted in the interests of highway safety:

1. Space shall be provided within the application site in accordance with revised drawings first submitted to the Local Planning Authority for the parking and manoeuvring of visitors vehicles, laid out, surfaced and maintained throughout the life of the development free from any impediment to its designated use.

In addition to the above condition the following notes should be appended to any consent for the applicant's information:

- a. Where the site curtilage slopes down towards the public highway provisions within Section 163 of the Highways Act 1980 requires measures to be taken to ensure that surface water run-off from within the site is not permitted to discharge across the footway margin. This usually takes the form of a dished channel or gully laid across the access immediately behind the back edge of the highway, discharging to a drain or soakaway within the site.
- b. The Highway Authority recommends that the first 5m of the access / driveway should not be surfaced with a loose material (i.e. unbound chippings or gravel etc.). In the event that loose material is transferred to the highway and is regarded as a hazard or nuisance to highway users the Authority reserves the right to take any necessary action against the landowner.

OFFICER COMMENTS

Principle of Development

The site lies outside of the built-up area boundary in the open countryside and as such is subject to Local Plan (LP) Policy EQ3.

The proposal is consistent with that which was assessed under HPK/2018/0074. The Delegated Report that accompanied a positive decision notice, assessed and determined under the current Local Plan, concluded that the principle of development is acceptable, having regard to LP Policy EQ3, subject to all other material considerations.

In light of the previous granting of planning permission for development that is consistent with that applied for under this application, it is concluded that the principle of development has been established.

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.

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.

Concerns have been raised with regards to the landscape and visual impacts of both the buildings, and associated parking and turning area, and widening of the site access.

In considering the proposed erection of the greenhouse and shed under HPK/2018/0074, Officers concluded the following within the Delegated Report:
"..it is not considered that the proposed buildings, given their size, scale and design, would occupy a prominent position in the landscape which would have a harmful impact upon the character of the area. As such, the proposed development complies with [relevant] policies in this regard.."

In light of the above position and subsequent decision to grant planning permission, taken having regard to the same planning policies as this application, Officers consider that the 'design principles' of the scheme have been established, and that as such, the proposed development is acceptable in design terms having regard to all relevant local and national planning policies.

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.

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

Matters of amenity were considered within the delegated report that accompanies the decision notice under HPK/2018/0074 and latterly within the delegated report that accompanied the decision notice to vary the approved plans under HPK/2021/0191.

In line with previous assessments, the proposed structures are of a very modest scale and would not be used for any purpose that would have the potential to adversely affect any aspect relating to neighbouring amenity, or indeed involve any process that would have the potential to affect public amenity. The application is therefore considered to comply with LP Policy EQ6 and paragraph 130 of the NPPF.

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.

The previous applications approved for the shed and greenhouse in 2018 and subsequent variation in 2021 included a condition that required a plan for car parking provision to be submitted and agreed prior to commencement of development. It has since been identified via an enforcement complaint and investigation that the shed has been constructed without securing the approval of parking details (Condition 3 relating to HPK/2021/0191).

Officers advised the applicant that the most appropriate way of regularising the site would be to apply for part retrospective permission which includes details of parking provision. Initial comments received from DCC Highways noted the poor quality of the plans and required points of clarification. The applicant has responded to these initial comments by providing better quality plans with the following commentary, received by email on 18/05/2023:

“To clarify Highways query as to any increase in traffic on Bings Rd, I would say no, no increase in traffic as we are referring to one vehicle going to and from site no more than once a day which is the current usage”

The Highways Authority subsequently responded to the improved revised plans, by stating that they have no objections, but that minor revisions are required to the parking arrangements to provide adequate space for a vehicle to manoeuvre to both enter and exit the site in a forward gear, eliminating the need for a vehicle to reverse onto Bings Road.

The revised comments then go on to recommend a condition, whereby revised details would be submitted and agreed. Officers considered that by applying this condition, it would defeat the purpose and need for submitting the application, and that it would be appropriate to seek these necessary details prior to the application being determined.

Revised plans have been received that accord with a draft sketch that was exchanged between the Highways Officer and Planning Officer which show a modest increase in the footprint of the hard standing. Whilst further comments from the Highways Authority have not been received, it is clear that the proposal in its latest revised form meets their requirements.

As such, the proposal in its final revised form is not considered to give rise to any adverse harm to highway safety in accordance with LP Policy CF6 and paragraph 110 of the NPPF.

Other Matters

Addressing other matters of concern raised by local residents and members of the public in turn:

- Any inconsistencies with plans have been addressed by virtue of formal professional architectural plans being submitted and considered
- With regards to future residential development, the principle of such development is not supported by relevant policies in the Local Plan, which has borne out by virtue of the dismissed appeal. The nature and use of these buildings do not amount to previously development (brownfield) land, and therefore the policy position relating to the principle of housing development on this unallocated site beyond and not adjoining the settlement boundary is unchanged as a consequence of this application
- An appropriate condition will restrict and prevent the use of the site for any commercial purposes that are not ancillary to the residential dwelling

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development contained within the National Planning Policy Framework.

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 part retrospective planning permission for a greenhouse, tool shed, and associated parking and turning area. The application follows the granting of full planning permission under HPK/2018/0074, and subsequent variation under HPK/2021/0191. The applicant has made a material start to the development, however following a complain tot the Council's Enforcement Team, it has been confirmed that this start was technically unlawful, as the applicant has failed to discharge the condition requiring the parking and turning area to be agreed by the Highways Authority.

This application thus seeks to regularise the unlawful material start and agree the parking and turning areas, as per the condition attached to the 2018 consent.

An assessment of the application has found that in its revised form, the proposal would be acceptable in design terms, given that the principle has already been established, and, in relation to the final set of revised plans, addressed matters raised by the Highways Authority.

The application in its revised form thus accords with all relevant Local Development Plan Policies, and all other material considerations including relevant paragraphs under the NPPF, and constitutes a sustainable form of development.

In line with LP Policy S1a and paragraph 11 of the NPPF the application is considered to amount to a sustainable form of development, and is recommended for approval subject to appropriate conditions.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 31st July 2023

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of High Peak Borough Council